

EXHIBIT E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JOEL MARTINEZ,

Plaintiff,

vs.

COLONEL JOSEPH R. FUENTES,
et al,

Defendants.

CIVIL ACTION NO.
15-2932 (BRM-TJB)

CONFIDENTIAL

ORAL DEPOSITION OF:
JOSE G. RIVERA

* * * * *
Tuesday, April 10, 2018
* * * * *

Transcript in the above matter taken at
the offices of Richard J. Hughes Justice Complex,
Office of the Attorney General, 25 Market Street,
Trenton, New Jersey, commencing at 11:00 a.m.

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Page 2

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Page 4

1 EXHIBITS
 2 (EXHIBITS ATTACHED TO THE END OF THIS TRANSCRIPT ARE
 3 CONFIDENTIAL)
 4 EXHIBIT RIVERA 1: CAD Abstract, CONFIDENTIAL NJSP
 5 PAGE 20 MARTINEZ 051 through 052
 6 EXHIBIT RIVERA 2: New Jersey State Police Daily
 7 PAGE 24 Activity Patrol Log,
 8 CONFIDENTIAL, NJSP MARTINEZ 053
 9 through 054
 10 EXHIBIT RIVERA 3: New Jersey State Police
 11 PAGE 40 Performance Evaluation,
 12 CONFIDENTIAL, NJSP MARTINEZ 211
 13 through 224
 14 EXHIBIT RIVERA 4: Two-page photocopy of maps
 15 PAGE 48
 16 EXHIBIT RIVERA 5: Lawrenceville School Google Map,
 17 PAGE 53 two pages
 18 EXHIBIT RIVERA 6: The Woods Drive East cul-de-sac
 19 PAGE 54 Google Map
 20 EXHIBIT RIVERA 7: New Jersey State Police - Request
 21 PAGE 66 to Engage in Outside Activity,
 22 CONFIDENTIAL, NJSP MARTINEZ 099
 23 through 100
 24 EXHIBIT RIVERA 8: New Jersey State Police - Request
 25 PAGE 68 to Engage in Outside Activity,
 CONFIDENTIAL, NJSP MARTINEZ 103
 through 105
 EXHIBIT RIVERA 9: State of New Jersey vs Joel
 PAGE 74 Martinez, CONFIDENTIAL, NJSP
 MARTINEZ 047 through 048
 EXHIBIT RIVERA 10: New Jersey State Police
 PAGE 82 Investigation Report,
 CONFIDENTIAL, NJSP MARTINEZ 040
 and 041
 EXHIBIT RIVERA 11: Answers to Plaintiff's First Set
 PAGE 121 of Interrogatories on Behalf of
 Trooper I. Jose G. Rivera

Page 3

1 WITNESS INDEX
 2 EXAMINATION OF MR. RIVERA BY MR. LOUGHRY:
 3 PAGE 6
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 5

1 EXHIBIT RIVERA 12: Hand-drawn diagram
 2 PAGE 122
 3 EXHIBIT RIVERA 13: New Jersey State Police Arrest
 4 PAGE 123 Report, CONFIDENTIAL, NJSP
 5 MARTINEZ 042 through 043
 6 EXHIBIT RIVERA 14: New Jersey State Police
 7 PAGE 126 Supplemental Investigation
 8 Report, CONFIDENTIAL, NJSP
 9 MARTINEZ 044 through 046
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 6

1 (JOSE G. RIVERA, having been duly sworn,
 2 was examined and testified as follows:)
 3 (EXAMINATION OF TROOPER RIVERA BY MR. LOUGHRY:)
 4 Q. Is it Trooper Rivera?
 5 A. Yes, it's Trooper Rivera.
 6 Q. Are you still a member of the New Jersey
 7 State Police?
 8 A. Yes.
 9 Q. I have a few brief instructions to give
 10 you before we get started with the questions and
 11 answers.
 12 A. All right.
 13 Q. As I introduced myself before we
 14 started, my name is Justin Loughry. I represent the
 15 plaintiff in this case. Today is the day for your
 16 deposition. That means I'll pose some questions to
 17 you which I concede to be relevant to the case, and
 18 it's your task to the best of your ability to answer
 19 those questions fully, completely, and truthfully.
 20 Do you understand that?
 21 A. Absolutely.
 22 Q. You are represented by counsel here
 23 today, is it Kai Marshall-Otto, do I have the full
 24 name right?
 25 MR. MARSHALL-OTTO: You do.

Page 8

1 understandable, that are short and to the point.
 2 That's my goal so that every question I ask is a
 3 question you understand. But if I ask a question
 4 that you don't understand, please tell me and I will
 5 try to rephrase it so that you do understand. Fair
 6 enough?
 7 A. Fair enough, sure.
 8 Q. When you answer a question, we have a
 9 record here of what's asked and what's answered, it
 10 will be a verbatim record. When you answer a
 11 question, the reader naturally assumes that you
 12 understood the question.
 13 A. Absolutely.
 14 Q. It's important to make your answers
 15 verbal. Feel free to make whatever gestures you
 16 want, but we really do need a verbal response, not
 17 just a shrug of the shoulder or a nod of the head. I
 18 can see you are somebody that nods your head a lot.
 19 But say yes or no --
 20 A. Absolutely. When it comes time to speak
 21 up, I'll definitely speak up.
 22 Q. It's helpful and human nature being what
 23 it is, we often err on this, but it's helpful if you
 24 let me finish my question before you start your
 25 answer. And it's also helpful if I let you finish

Page 7

1 BY MR. LOUGHRY:
 2 Q. And he's apparently a member of the
 3 staff of the Attorney General's Office of the State
 4 of New Jersey; is that right?
 5 A. That's correct.
 6 Q. And he's representing you here today?
 7 A. That's correct.
 8 Q. Now, he has the right, if he concedes
 9 that something requires it to lodge an objection to a
 10 question, and the rules of evidence and discovery,
 11 and so forth, place some limits on that process that
 12 needn't concern you; but my point is, if he does make
 13 an objection, your job is to stop talking even if you
 14 are in mid-sentence.
 15 A. I understand.
 16 Q. And let Mr. Marshall-Otto, let he and I
 17 work that out to the best of our ability before we
 18 continue to finish up. If you keep on talking,
 19 experience tells us that this court reporter to your
 20 right is going to have a hard time taking down more
 21 than one person talking at the same time. Although
 22 I'm sure she is very experienced and talented, it's
 23 still difficult. Okay?
 24 A. I get it.
 25 Q. I try to ask questions that are

Page 9

1 your answer before I ask my next question. I will do
 2 my best and I'll ask you to do your best as well.
 3 Again, because the court reporter has a hard time
 4 taking down two people speaking at the same time.
 5 A. Got it.
 6 Q. Now, this is going to be made into a
 7 transcript, a booklet, which will be made available
 8 to the parties for the appropriate price, I'm sure.
 9 So it's a verbatim record, unless we go off the
 10 record by agreement of counsel then the reporter will
 11 stop taking things down. We don't have a judge here
 12 today, we don't have a jury here today, obviously,
 13 but your testimony is taken under oath, and do you
 14 understand that it's possible down the road in this
 15 case that a jury or a judge may be asked to review
 16 these questions and answer and rely on them or take
 17 them into account as almost if they were said in
 18 court. Do you understand that?
 19 A. Right, yes.
 20 Q. So it's important to take the proceeding
 21 seriously, to answer fully, truthfully, and
 22 completely to the best of your ability.
 23 A. Fair enough.
 24 Q. If you need a break, I am not sure you
 25 will, but if you need break, let us know, at least I

Pages 6 to 9

Page 10

1 am not, I don't know about your lawyer, but I'm not
2 trying to make this into an endurance test or
3 anything like that. We don't want to make anybody
4 physically uncomfortable.

5 Do you have any questions of me before
6 we start?

7 A. Not at all.

8 Q. How old are you?

9 A. I'm forty-nine.

10 Q. And your date of birth?

11 A. **1948.**

12 Q. And are you single or married at this
13 point?

14 A. I am married.

15 Q. Any children?

16 A. Two.

17 Q. How old are they?

18 A. Seventeen and fifteen.

19 Q. Okay. Now, are you assigned to a
20 particular station at this point?

21 A. Not at this time. I am actually on
22 medical leave.

23 Q. How long have you been on medical leave?

24 A. It's been three years now.

25 Q. Going back to 2015?

Page 12

1 Q. Can we agree, and I think I have the
2 date right, that the date of the incident we are here
3 to talk about today was the 26th of April --

4 A. Yeah, I was on full duty, absolutely
5 without a doubt.

6 Q. And earlier in 2013 you were on medical
7 leave?

8 A. Correct.

9 Q. Do you remember what day you came back
10 on full duty?

11 A. No, I wouldn't be able to tell you that
12 off the top of my head.

13 Q. Was it in April, that same month?

14 A. No.

15 Q. This was before?

16 A. That was before. Because I was on --
17 when I came on, back to full duty, I was in the
18 station on limited duty. So... And the periods,
19 you'd have to contact medical, find out what that was
20 about, roundabout the dates.

21 Q. Now, on April 26, 2013, were you what
22 was called patrol trooper?

23 A. Road trooper, correct.

24 Q. And now, did you have a certain patrol
25 loop that you were responsible for patrolling on

Page 11

1 A. Correct.

2 Q. There's some mention in the records I
3 reviewed from your personnel file of you being on
4 medical leave perhaps in the year 2013?

5 A. Correct.

6 Q. What was the time period of that medical
7 leave?

8 A. That medical leave, 2013, '12 into '13.

9 Q. Can you remember the months?

10 A. Month? March, '12, March of 2012, and
11 then into '13.

12 Q. How far into '13?

13 A. The full year, and then I was on and off
14 medical leave due to what I was, you know, medically
15 diagnosed with.

16 Q. Now, was this a physical or a
17 psychological condition? I don't need to know all
18 the details.

19 A. Physical.

20 Q. But you were working on April the 26th,
21 20 --

22 A. That's correct. That was the period
23 where I was on and off where I was coming on limited
24 duty, then I was going full duty, and then I
25 eventually was -- I was let out on a medical leave.

Page 13

1 April the 26th, 2013?

2 A. That's correct, yes, I did.

3 Q. Was this loop having to do with Route 95
4 and 295?

5 A. 295 and the whole interstate. Correct.
6 Basically that was the area I was covering at the
7 time, but we, you know, we covered the whole
8 interstate from 95 down to the shore, if it all
9 happened to require us to head that far east.

10 Q. Let's see. You weren't the only road
11 trooper --

12 A. No.

13 Q. Let me finish my question.

14 A. I am sorry.

15 Q. You weren't the only road trooper on the
16 road that day, were you, in your area?

17 A. No, I was not.

18 Q. What barracks were you out of?

19 A. Hamilton Station.

20 Q. Over on Negron Road?

21 A. Negron Boulevard, correct.

22 Q. If you can remember what's roughly the
23 geographic area that the troopers in that station
24 patrol?

25 A. Well, the station, how would you call

Pages 10 to 13

Page 14

1 it, the highway, and then we had smaller residential
2 areas that we covered, like Upper Freehold, and what
3 else? Upper Freehold. I didn't even cover that area
4 for long. I was only at the Hamilton Station for a
5 period of time.

6 Q. Was the geographic extent of the area
7 you were supposed to control --

8 A. Mine was highway.

9 Q. Let me finish.

10 A. Okay.

11 Q. On or about April the 26th, 2013, what
12 was the geographic extent of the area you were
13 supposed to control?

14 A. The highway and we cover anything off of
15 the highway we covered. So, I mean, it's not just
16 the highway alone. I mean, we cover, as troopers we
17 cover the areas that exit off of the interstates.

18 Q. How far, for example, east from Hamilton
19 were you supposed to be covering?

20 A. East? Right up to the bridge at 95, the
21 crossing over to the Pennsylvania side. Wait a
22 minute. East is the shore. Sorry.

23 Q. I am trying to choose my words
24 carefully. If you think about where your Hamilton
25 Station is, where is it roughly, off of Route 195 or

Page 16

1 A. Okay.

2 Q. So to get to your assigned area then,
3 was your patrol shift starting at the station on
4 Negron?

5 A. Okay. If I could, because, I mean, it's
6 as if you're asking -- we have a general area. We
7 have the Hamilton area that's as big as, I don't
8 know, perhaps a couple hundred square miles, but then
9 you have troopers that are designated areas. It
10 doesn't necessarily mean that you are not, you know,
11 overlap each other, but that particular day, I was to
12 cover the west of our station area, we call it
13 station area, because that's what's known as. This
14 is jargon that we know. Station area is the complete
15 area we cover, not to say we can't jump off the
16 interstate and head into Trenton and Bordentown and
17 so forth and all. We got a large area. On that
18 particular day, April 26th, you are referencing an
19 area that I was found covering as part of my duty,
20 and that was 295, 95, which is the west part of our
21 station area.

22 Q. Okay. And were you the only road
23 trooper during your shift that was patrolling that
24 area or were there others?

25 A. I may have. Like I say, we overlap. So

Page 15

1 295?

2 A. It's 195. Yeah, 195, Exit 8.

3 Q. Was it within a mile of 195?

4 A. A mile from 195? Yeah, yeah. The
5 station, yes.

6 Q. So 195 goes east/west roughly speaking?

7 A. Uh-hum.

8 Q. I am asking how far on or about April
9 the 26th, 2013, how far east were you expected to be
10 covering or were you expected?

11 A. Well, I wasn't stationed -- I wasn't
12 patrolling the east. I was patrolling the west.

13 Q. This is what I am trying to get at.

14 A. I was patrolling the west.

15 Q. Forgive me if I am not asking artfully
16 enough. But let's go to the west from the station.
17 You were assigned to the highway portions that were
18 to the west of the station?

19 A. West of the station.

20 Q. Of Negron?

21 A. West of the station, correct.

22 Q. Did that include parts of 195?

23 A. 195? Well, no, at that time, that
24 covered 295 and 95.

25 Q. Okay.

Page 17

1 if he was in my area, I wouldn't know, I mean, we go
2 from --

3 Q. Who is he?

4 A. Another trooper.

5 Q. Okay.

6 A. Another trooper. I'm sorry. With
7 regard to, I mean, you see us, you know, we're all
8 over. So we are overlapping, we are doing that area.
9 I can go as far as, you know, the 195 area and come
10 back and do, I mean, over a period of 12 hours, you
11 can cover, you know, a few hundred miles of patrol.
12 So that particular area, if there was another
13 trooper, yeah, there was another trooper working in
14 my area. Who, I don't know, you know.

15 Q. Let me see if I understand the last
16 answer. You were in sort of the area that the troop
17 station covers, you're not the only patrol --

18 A. Correct.

19 Q. -- trooper out there. There are others
20 on the same shift?

21 A. That's correct.

22 Q. And as you sit here today, you don't
23 know who they were?

24 A. At the time? No.

25 Q. Well, at the time would you know?

Pages 14 to 17

Page 18

1 A. Oh, yeah, you're talking about my squad
2 mates. I don't know where they were specifically,
3 but, yeah, our squad was working, so, I mean, to say
4 where they were, if you're asking me specifically
5 where they were, we have a squad. We're usually
6 between five to eight troopers.

7 Q. Does that mean five to eight cars?

8 A. That would be five to eight other
9 vehicles, correct.

10 Q. In other words, I don't want to make any
11 assumptions here, but one trooper to a car?

12 A. No, not in -- daytime. No, they would
13 have been in single vehicles, one trooper per
14 vehicle.

15 Q. One trooper per vehicle. All right.

16 A. That's something we do safety-wise at
17 night, we will double up, yeah.

18 Q. And we are talking today about daytime
19 hours, April 26, 2013.

20 A. That's correct.

21 Q. So there are somewhere between five and
22 eight other road troopers out on patrol in cars from
23 that station in your area?

24 A. Yes.

25 Q. You don't know who they were?

Page 20

1 Q. Typically did you have their phone
2 number?

3 A. Yeah, absolutely.

4 Q. Was there also some other kind of means
5 of communication in the car besides your cellphone
6 where you could call those other --

7 A. Yes, our radio cars.

8 Q. And the radio mechanisms in your car,
9 could you call dispatch?

10 A. Call or go over the air, connect with,
11 yeah, like walkie-talkies, what we know as
12 walkie-talkies. Typical, you know, police radio
13 transmission equipment that are installed in our
14 vehicles, all vehicles.

15 Q. That equipment, in other words, allowed
16 you both to call those other troopers directly and
17 also to call Dispatch; do I have that right?

18 A. Everyone would hear. You wouldn't just
19 call to, you know, to your dispatcher. Everyone
20 would hear that you are reaching out to dispatcher or
21 reaching out to a particular trooper. Uh-hum.

22 MR. LOUGHRY: Let me have this marked as
23 Rivera 1.

24 (Exhibit Rivera 1, CAD Abstract, NJSP
25 MARTINEZ 051 through 052, is marked for

Page 19

1 A. Where they were, I know my squad mates.
2 I can't tell you, this is years ago, who was actually
3 working that day, yeah.

4 Q. At this time, back in April of 2013, did
5 you have a means of communication between your unit
6 and those units?

7 A. Yes, a car radio.

8 Q. You could call those units on your car
9 radio?

10 A. Yes.

11 Q. Did you have to go through Dispatch to
12 do that or could you call them directly?

13 A. I could either call them through a
14 cellphone if I have to call them directly, just, I
15 just want to talk to, for instance, I wanted to speak
16 to you, I call you on the cellphone if it wasn't
17 related to work. If it was over the air, obviously
18 it's work-related.

19 Q. I'm trying to understand what the means
20 of communications were. You had a personal
21 cellphone?

22 A. I had my personal cellphone, correct.

23 Q. And those other units, they had personal
24 cellphones?

25 A. I would assume so. Not everybody.

Page 21

1 identification.)

2 BY MR. LOUGHRY:

3 Q. I'll show you what we marked as Rivera 1
4 for identification. I'll ask you to take a look at
5 that.

6 Trooper, have you had a chance to look
7 at what we've marked as Rivera 1 for identification?

8 A. Yes.

9 Q. Do you recognize the document?

10 A. It's a report, an Abstract report.
11 Everything is reported through Dispatch.

12 Q. It says CAD Abstract at the top. Does
13 that CAD stand for something like Computer Automated
14 Dispatch?

15 A. Correct, uh-hum.

16 Q. Is this the kind of report that is
17 frequently generated with respect to patrol
18 activities or incidents that happen on patrol?

19 A. Anything that comes through the station,
20 correct.

21 Q. All right. So in this case, this
22 appears to relate to the 26th of April. It's not a
23 report about the entire shift or the entire day, is
24 it?

25 A. Nope. What it looks like, it's what

Pages 18 to 21

Page 22

1 basically shows when -- basically when I communicated
2 to dispatch what had just happened. So, for
3 instance, the top part is just, you know, general
4 information that is obviously generated time, so
5 forth and so on. So when I contacted the station at
6 4/26 -- April 26 at 4:05, was basically that I had
7 one Hispanic male under arrest.

8 Q. Okay. So you're looking at the first
9 page, Location History, Date and Time, 4/26/2013, and
10 there's a time in military time, 16:05:23.

11 A. I said it in regular time.

12 Q. That's 4:05 in the afternoon?

13 A. That is correct.

14 Q. And that's when you are contacting
15 dispatch to report that you've arrested a Hispanic
16 man?

17 A. Yes.

18 Q. That was the arrest of Joel Martinez?

19 A. Correct.

20 Q. Is that the first contact with Dispatch
21 from you that's reflected with respect to that
22 incident on this sheet?

23 A. That's correct, uh-hum.

24 Q. So there was no contact from you at --
25 let's see. Did you arrive at the location where you

Page 24

1 the time you actually made the arrest, you did not
2 call out to any other officer?

3 A. No.

4 Q. You didn't call the Headquarters or the
5 Station for any assistance?

6 A. None at all.

7 Q. Now, of course, this is not sort of a
8 summary of your entire patrol shift, is it?

9 A. No, this is just one incident. This is
10 one incident, correct.

11 Q. For any incident on your -- for any
12 incident on your shift that day, you would normally
13 have a CAD Abstract relating to each incident?

14 A. Incidents is basically any stops, any
15 contacts or any work-related activity that I
16 contacted, you know, Dispatch in letting them know of
17 what I am doing.

18 Q. Okay. And your first contact at
19 Dispatch about this incident was the 16 --

20 A. 05.

21 Q. -- 05:23, 4:05 in the afternoon?

22 A. That's correct.

23 MR. LOUGHRY: Rivera 2.

24 (Exhibit Rivera 2, New Jersey State

25 Police Daily Activity Patrol Log, NJSP MARTINEZ

Page 23

1 ended up arresting Mr. Martinez some 30 minutes
2 before?

3 A. Give or take, yeah.

4 Q. There's no contact with Dispatch at that
5 time?

6 A. No, correct.

7 Q. And are you the person as far as you
8 know who supplied all of this information to Dispatch
9 that's reflected on here?

10 A. Yes.

11 Q. In the Location History section?

12 A. Correct.

13 Q. All right. There was no other officer
14 involved, in other words?

15 A. No.

16 Q. You didn't call out to any other officer
17 around the same time of 4:05:23?

18 A. Nope.

19 Q. You didn't seek the assistance or help
20 of any other officer?

21 A. No.

22 Q. From the time you arrived -- is this the
23 location of the Lawrenceville School?

24 A. That's correct.

25 Q. From the time you arrived there until

Page 25

1 053 through 054, is marked for identification.)
2 BY MR. LOUGHRY:

3 Q. I am going to hand you now what we've
4 marked as Rivera 2 for identification. We may come
5 back to that one so I'll just keep that there.

6 Do you recognize the document we've
7 marked as Rivera 2?

8 A. Yeah. It looks like my patrol chart.

9 Q. Your patrol chart?

10 A. Yes.

11 Q. Up at the top on the first page --

12 A. Uh-hum.

13 Q. -- on the left-hand side, left-hand
14 column, at the top, New Jersey State Police Daily
15 Activity Patrol Log. Is that the formal name of this
16 document?

17 A. Yes.

18 Q. Is there such a Daily Activity Patrol
19 Log that's maintained for each of your work shifts?

20 A. That's correct.

21 Q. Do you have some responsibility to
22 making these entries into your report?

23 A. As they generate, correct.

24 Q. Do you dictate them in or type them in?

25 A. No, you type them in basically. What is

Pages 22 to 25

Page 26

1 generated as you go into, physically into the
 2 computer system in your vehicle, uh-hum.
 3 Q. Was this a 12-hour shift that day?
 4 A. I believe -- all our shifts are 12
 5 hours.
 6 Q. All right. So the first time that
 7 appears, I think, we can agree, 7:52 in the morning?
 8 A. Correct.
 9 Q. Is that about the time that your shift
 10 started?
 11 A. Not necessarily. No, we start at 7
 12 o'clock.
 13 Q. 7 o'clock?
 14 A. Usually 7 to 7, or 6 to 6, all depending
 15 what you're working. It's a 12 hour.
 16 Q. So 7 to 7?
 17 A. Probably 7 to 7, correct.
 18 Q. The last time reflected on here says
 19 18:49 going off duty?
 20 A. Yeah, I mean, we don't, you know.
 21 Q. I'm not an outraged taxpayer here if you
 22 got 11 free minutes.
 23 A. Yeah, it's when -- if you are in the
 24 station, you don't necessarily, it's not, like you
 25 said, not to the minute, correct.

Page 27

1 Q. It looks like it was a 7 to 7?
 2 A. Correct.
 3 Q. So it's 7:53 next to the time, 7:53, the
 4 word "arrived" appears. What does that mean,
 5 arrived?
 6 A. Arrived at -- all right. So we do MVR
 7 checks, we basically go over at the station level,
 8 see, it indicates at the location post mile, Hamilton
 9 Headquarters, basically doing our vehicle checks.
 10 And arrive is how you show that you are at that
 11 location to show where you conducted, in this case,
 12 the MVR prep check.
 13 Q. And what does that stand for?
 14 A. The Motor Vehicle Recorder.
 15 Q. Motor Vehicle Recorder?
 16 A. Uh-hum.
 17 Q. Because you have a recording system in
 18 your vehicle?
 19 A. Correct.
 20 Q. Is that audio and video?
 21 A. Audio and video.
 22 Q. How is that activated?
 23 A. In the case of when you turn on the
 24 lights, it's automatically activated.
 25 Q. Do you have some type of transmitter on

Page 28

1 your belt?
 2 A. In our pockets or on our belts, inside
 3 on our shirt pocket.
 4 Q. And does that also activate when the
 5 headlights or sirens go on?
 6 A. Correct, yes, the overhead lights.
 7 Q. Is there any other way of activating
 8 that system other than the overhead lights or the
 9 sirens? Is it the overhead lights that activate
 10 them?
 11 A. Yes.
 12 Q. Is there any other way to activate it?
 13 A. You can manually, the audio, you can
 14 also audio, activate manually, manually activate
 15 both, the audio and video.
 16 Q. So if you were in a situation where for
 17 one reason or another, either you didn't put your
 18 overhead lights on or you couldn't put them on, you
 19 still could activate the system?
 20 A. Correct.
 21 Q. Throughout the incident that we're
 22 talking about here today, I want to focus on from the
 23 moment you arrived at Lawrenceville School until the
 24 time you arrested Mr. Martinez, did you ever activate
 25 that system?

Page 29

1 A. No.
 2 Q. Did you have the transmitter in your
 3 pocket?
 4 A. More than likely I would have, yeah.
 5 Q. Is that normally part of the uniform?
 6 A. Yes, correct. But it's important --
 7 okay.
 8 Q. Just answer the questions.
 9 A. Okay. Go ahead.
 10 Q. So you could manually activate it?
 11 A. Correct.
 12 Q. And is there some kind of a device or a
 13 button on the transmitter that you have on your
 14 person by which can manually activate it?
 15 A. Yes, correct.
 16 Q. There's also some switch in the car by
 17 which you can manually activate it?
 18 A. Correct.
 19 Q. But you could do it whether you're in
 20 the car or not?
 21 A. Yes.
 22 Q. But in this case you did not?
 23 A. Yes.
 24 Q. Just so I am clear, we are taking
 25 discovery here, there's no recording that you know of

Pages 26 to 29

Page 30

1 any of the interactions between you and anyone at the
2 Lawrenceville School during this time from the moment
3 you arrived until the moment you drove way with Mr.
4 Martinez in the car?

5 **A. That's correct.**

6 Q. And you didn't have it on in your car
7 when you were driving away, did you?

8 **A. No.**

9 Q. And that's both audio and video we're
10 talking about?

11 **A. That's audio and video.**

12 Q. Now, looking at this Daily Activity
13 Patrol Log for just a moment, it looks like you made
14 a note at 8:56 in the morning about there being some
15 debris in the roadway or waterway?

16 **A. Yes.**

17 Q. That was at a particular location, and
18 the location looks like it's a the right-most column?

19 **A. Uh-hum.**

20 Q. Where was that; can you interpret that?

21 **A. State Highway 29 northbound, mile post
22 point eight, so eight-tenth of a mile.**

23 Q. In Hamilton Township?

24 **A. Hamilton Township.**

25 Q. Is that directly off Route 195 or 295?

Page 32

1 **A. I don't necessarily -- I stop the
2 vehicle, and what we do, you stop the vehicle, you
3 call it in, and then you do an interim, give them the
4 status of the stop, whether you are okay, and then
5 you basically conduct -- you are going to let them
6 know you either are going to write a summons or not.
7 You don't let them know which, if it's enforcement or
8 no enforcement.**

9 Q. When you stop the car, stop the car on
10 the highway, and you say you communicate and let them
11 know where you are.

12 **A. Uh-hum.**

13 Q. Do you do that before you get out of
14 your car?

15 **A. That's correct.**

16 Q. And that is essentially for safety
17 reasons?

18 **A. That's all for safety reasons, that is
19 correct. And safety, if I could, it's so that they
20 know your exact location in the event something, you
21 know, goes south, and you need help, and they know
22 exactly where you are. So it's very important.**

23 Q. At 9:25, it looks like there's some kind
24 of a safety glass issue someplace. You arrived at
25 some location?

Page 31

1 **A. Off of 95.**

2 Q. Off of 95?

3 **A. Uh-hum.**

4 Q. And then you have an entry at 9:06 for a
5 motor vehicle stop. Did you make a motor vehicle
6 stop at around 9:06?

7 **A. It appears that -- let's see here if I
8 assisted or not. No enforcement. Yeah, I stopped
9 the vehicle, correct.**

10 Q. And this was on I295 northbound?

11 **A. Correct.**

12 Q. Someone was using their telephone?

13 **A. Yeah; some individuals do that, yeah.**

14 Q. That's what you stopped the car for?

15 **A. Yes, they have to use their hands-free
16 wireless phones, correct.**

17 Q. And there's another motor vehicle stop
18 at 9:16?

19 **A. Right.**

20 Q. But there's no entry here. Is there an
21 explanation why you stopped this other car? I am
22 trying to figure this out.

23 **A. That doesn't show why. I couldn't tell
24 you why.**

25 Q. Are you supposed to record a reason?

Page 33

1 **A. Yeah, I assisted somebody, I don't know
2 who, so someone that I am -- see, now, this is --
3 this is interesting. It shows assisted. I assisted,
4 so whoever made a stop, it wasn't necessarily my stop
5 perhaps, because it says an assist. So I would have
6 been there under someone else's job, and I was just
7 there basically backing them up or assisting them.**

8 Q. Okay.

9 **A. So it sort of would go back to that
10 first question you asked as to whether the stop,
11 whether I was actually the one stopping or assisting.**

12 Q. All right. Let's go to the second page
13 then.

14 **A. Uh-hum.**

15 Q. We may have to flip back to the first,
16 because I circled the word "assist" on that the 9/25
17 entry.

18 **A. Yeah.**

19 Q. But I see for your motor vehicle stop
20 there's a capital P in parentheses, at 9:06. Does
21 that reflect that's your stop, the capital P in
22 parentheses?

23 **A. You know, the system, I am not familiar
24 with the system as a whole. This is not our job, but
25 if I am correct and I would have to further look into**

Pages 30 to 33

Page 34

1 this, because they may call that the primary,
2 meaning, that's my stop, my job. If I assisted, that
3 would mean that was someone else's job.

4 Q. Okay. All right. Well, look at the
5 top, the second page, 14:52 p.m., I guess that would
6 be 2:52 in the afternoon?

7 A. Correct.

8 Q. You have a motor vehicle stop with
9 capital P in parentheses right before that entry
10 again.

11 A. Uh-hum.

12 Q. Again, that appears to be a stop that
13 you made?

14 A. Counsel, that is something that is new
15 to me. We wouldn't typically look at our patrol
16 charts as detailed as you are indicating here. So if
17 that's an issue, counsel, the P being whether it's
18 primary being that it's my job as opposed to someone
19 else's job, another trooper, another job and I am
20 assisting, that probably needs further looking into.

21 MR. MARSHALL-OTTO: Let's go off the
22 record.

23 (Off-the-record discussion.)

24 MR. MARSHALL-OTTO: Let's go back on the
25 record.

Page 36

1 when I went over the air and notified them that I had
2 a Hispanic male under arrest.

3 Q. We can confirm that, I guess, Rivera 1,
4 16:05, Rivera 1 being the CAD Abstract, is when you
5 actually called in the arrest?

6 A. Correct.

7 Q. So you actually arrived at that scene
8 maybe 30 minutes before?

9 A. Correct, uh-hum.

10 Q. Is there any entry on your entry
11 activity log for arriving at that scene?

12 A. It's patrolling. You're not putting
13 yourself out. It's sort of like, I was on foot, and
14 you see a New York City cop on beat walking the
15 streets, you don't stop, you know, on the corner, and
16 you say, I'm at this location for the next two
17 minutes, and I am going to take two steps east to the
18 next block. So basically what I am saying is that
19 you're in the area. And as what anyone would notice
20 when you see officers, well, just state highway
21 patrols or troopers on the road, they are one minute
22 in one area, and in another minute, they can be in
23 another.

24 Q. All right. But you did get out of your
25 car?

Page 35

1 BY MR. LOUGHRY:

2 Q. Looking down, 15:24 the word "arrived"
3 appears. That would be 3:24 in the afternoon, and
4 it's a patrol loop?

5 A. Patrol loop, yeah.

6 Q. Does that mean you returned to your
7 patrol loop?

8 A. Patrol loop, it's just in the area, in
9 the area of 295. Specifically it's on like a roll,
10 you're rolling, you're patrolling your roam. So
11 that's in the area I was in at the time.

12 Q. Okay. Now, the next time entry is
13 16:05?

14 A. Correct.

15 Q. And it says arrived and there's a
16 trespass complaint.

17 A. Uh-hum.

18 Q. And your note here says one Hispanic
19 male, at 1 H M under Lawrenceville School varsity
20 baseball field ref trespass.

21 A. Right.

22 Q. Is that indicating that you arrived
23 there at 16:05 or is that when you actually made the
24 arrest?

25 A. That's when I made the arrest. That's

Page 37

1 A. I did get out of my car, correct,
2 uh-hum.

3 Q. Let's go to that for a minute. You went
4 to the Lawrenceville School?

5 A. Correct.

6 Q. You parked near the baseball field?

7 A. Correct.

8 Q. And you got out of your car?

9 A. Correct.

10 Q. Now, at that point you weren't
11 investigating any kind of complaint, were you?

12 A. Correct.

13 Q. You weren't responding to any kind of
14 complaint?

15 A. Correct.

16 Q. You were interested in checking out the
17 baseball field?

18 A. At the time, I was a volunteer baseball
19 coach at the Lawrenceville School which the State
20 Police is well aware of. So on that day, I stopped
21 by to see my boys practice.

22 Q. Did you have anybody's permission to do
23 that?

24 A. My permission? No. As a patrol
25 trooper, we have the liberty of doing what would be

Pages 34 to 37

Page 38

1 community service, stopping just like we would stop
 2 at grocery stores and supermarkets, just to say hello
 3 and give a presence of who we are. This particular
 4 day, I actually stopped by and see how my boys were
 5 doing for practice.
 6 Q. Was this a break? Did you have a break
 7 that you did this on?
 8 A. Break? While on patrol. Not
 9 necessarily, it's not a specific break.
 10 Q. Do you get a lunch break?
 11 A. Yeah.
 12 Q. This wasn't your lunch break?
 13 A. It wasn't my lunch break, correct.
 14 Q. Do you get any other break, formal
 15 breaks, under your contract?
 16 A. Lunch break? Coffee break. We can,
 17 even on patrol, we're on 24/7. I mean, let's say,
 18 for the 24/7 being that when we're off, we are still
 19 on. And to clarify this, you know, if we're on
 20 patrol and we want to stop at the Wawa, we want to
 21 stop at the supermarket and grab something to eat,
 22 there's no policy, no procedure that you have to say,
 23 oh, I'm going to step out and get a cup of coffee, we
 24 can turn on our radios, which we, you know, carry on
 25 our person.

Page 39

1 Q. Did you receive some kind of a verbal
 2 admonition or some counseling from one of your
 3 supervisors for your appearance that day at that
 4 location?
 5 A. My appearance there?
 6 Q. Yes.
 7 A. Oh, well, they were surprised, they were
 8 surprised, yeah. So I was, I was reprimanded,
 9 correct.
 10 Q. What was -- who communicated that
 11 reprimand to you?
 12 A. My staff sergeant.
 13 Q. Who was that?
 14 A. Thomas Murtha.
 15 Q. How did he do that?
 16 A. Well, he basically wrote it up. In the
 17 beginning, it was told to me nothing would actually
 18 come of it, and then I guess it was brought up to
 19 higher rank, and they looked at it a little further,
 20 but it was disposed of, unsubstantiated. Because as
 21 troopers do, we patrol, we're doing our job, and that
 22 day I was doing my job. I was just off the road in
 23 an area that I am, you know, permitted to be in.
 24 Though it was not on the highway, per se, but, like I
 25 said, in the beginning, the exits and basically the

Page 40

1 State of New Jersey is our jurisdiction.
 2 Does that answer your question, counsel?
 3 Q. I am thinking about your answer.
 4 A. Okay.
 5 Q. I have the right to do that.
 6 A. Because the question of why I was there
 7 has been brought up, and like I said, it's been
 8 looked into and disposed of by my superiors.
 9 MR. LOUGHRY: All right. Let's have
 10 this marked.
 11 (Exhibit Rivera 3, New Jersey State
 12 Police Performance Evaluation, CONFIDENTIAL,
 13 NJSP MARTINEZ 211 through 224, is marked for
 14 identification.)
 15 BY MR. LOUGHRY:
 16 Q. I'll show you what was marked as Rivera
 17 3 for identification. You're familiar with New
 18 Jersey State Police Performance Evaluation forms, are
 19 you?
 20 A. Yes, sir.
 21 Q. This is a periodic review by your
 22 supervisors of your performance?
 23 A. That's correct.
 24 Q. And you probably saw a copy of this one
 25 before, haven't you?

Page 41

1 A. I've seen -- well, every quarterly or I
 2 forget how many times, we are evaluated for our
 3 performance, correct.
 4 Q. There's a period on the first page,
 5 there's a period which relates to according to the
 6 form, April 20, 2013 - July 12, 2013?
 7 A. Where do you see the dates?
 8 Q. Upper right-hand corner, right below
 9 where it says New Jersey State Police.
 10 A. Oh, April 20th through July 12th,
 11 correct.
 12 Q. So this covers the time period including
 13 the date of April 26, 2013, right?
 14 A. Correct.
 15 Q. If you look at page 11 of 11 of 14?
 16 A. 11?
 17 Q. It says it at the bottom, Page 11 of 14.
 18 A. Okay.
 19 Q. It looks like, first of all, on this
 20 page, it looks like you got an unsatisfactory check
 21 mark at the top?
 22 A. Yeah, yeah, yeah.
 23 Q. You generally were rated satisfactory in
 24 your evaluations?
 25 A. Correct.

Pages 38 to 41

Page 42

1 Q. In this one, you were rated
2 unsatisfactory?
3 A. For this particular one, this was
4 dealing with the issues of knowledge of rules.
5 Q. Let's take a look at this commentary
6 here. It sounds like you were, quote, verbally
7 counseled?
8 A. Correct.
9 Q. And I may have to ask you a couple
10 questions about these initials because we don't know
11 what they mean, capital M, capital A, capital P,
12 capital P, capital S, MAPPS?
13 A. MAPPS.
14 Q. What is that?
15 A. And I am going to give you the best
16 answer to that would be, sort of like a managerial
17 -- so application, where they carry and follow each
18 trooper's performance, and they write the report as
19 to what it is.
20 Q. So it's some kind of a management
21 accountability type of situation?
22 A. I would go with that.
23 Q. And then there is a reference to SOP
24 C-22. What is that?
25 A. The top of my head, that's standard

Page 44

1 where the baseball field is located, you're talking
2 maybe two miles, not even two miles. What am I
3 saying. I am talking about, I don't know, quarter of
4 a mile to be more exact. So that whole area vicinity
5 where they say, you know, I was not, and I had not
6 reported where I was to -- in relationship to my
7 patrol loop 295, they were, you know, sort of
8 looking, looking into that further.
9 Q. They say here in the last sentence,
10 quote, without commenting on the specifics of the
11 allegation. Let me stop there for a second.
12 Apparently there's a reference here to the arrest for
13 disorderly conduct of Mr. Martinez.
14 A. Correct.
15 Q. Without commenting on that, I'll go back
16 to the quote. Quote, Trooper Rivera made an error in
17 a basic patrol function, which is unsatisfactory for
18 a trooper of his seniority.
19 A. Right.
20 Q. You see that.
21 Did they explain to you what the error
22 was that you made in the basic patrol function?
23 A. Basically to be more specific. Just the
24 idea --
25 Q. I am asking if they explained to you

Page 43

1 order of operation, C-22. I don't know exactly what
2 it is. I don't know exactly what it is. C-22, I
3 don't know exactly.
4 Q. Well, they talk about this incident,
5 right after the reference to SOP C-22. There is a
6 comment here, and I'm quoting, "This stemmed from an
7 incident in which Trooper Rivera failed to document
8 his location in the CAD."
9 A. Correct, uh-hum.
10 Q. Evidently, they were determining that
11 you had failed to document your location?
12 A. That's correct.
13 Q. And the location that you had failed to
14 document was your car and you being at the
15 Lawrenceville School?
16 A. Correct.
17 Q. And I am talking about the time period
18 prior to you calling in at 1605 and 23 seconds,
19 right?
20 A. Well, I mean, now, the answer to that
21 would be, how far, then, that's where they then
22 evaluated the whole realm of where my location is in
23 relation to what I put in as patrol loop 295.
24 Because I was in the area, in the vicinity of 295,
25 which from the exit to the Lawrenceville School and

Page 45

1 what your error in a basic patrol function was.
2 A. I don't recall the conversation -- I
3 mean, the details. I know we had the conversation,
4 and, you know, you have to understand, the nature of
5 our job; and so that if someone, you are being
6 counseled, basically verbal counseled, basically like
7 you and I have a conversation, and they are telling
8 you, look, you know you weren't supposed to be there.
9 And I said, well, I mean, I'm in the area. So we
10 went over -- how close are you to the road. Well, a
11 quarter of a mile. Were you there for what reason?
12 Community service. I'm there letting them know that
13 I'm of a presence of law enforcement. We basically
14 had a little conversation, and that was it, a verbal
15 counsel. It doesn't go into exactly, you know, any
16 specific, you know, nature, of how you should do it,
17 when you should do it. Basically it was a
18 conversation, called verbal counsel, just to not, you
19 know, do that again.
20 Q. And what you were not supposed to do
21 again, go over to a place like that without informing
22 Dispatch of your location --
23 A. Absolutely.
24 Q. Can I finish my question?
25 A. Yes, I'm sorry.

Pages 42 to 45

Page 46

- 1 Q. What you're not supposed to do is go to
2 a location such as that, which is off the roadway --
3 A. No, no, no. Not necessarily.
4 MR. MARSHALL-OTTO: Let him finish the
5 question.
6 BY MR. LOUGHRY:
7 Q. -- and spend a half hour without
8 informing Dispatch where you are and what you're
9 doing. Isn't that what they were telling you?
10 A. No, no. Basically that was -- do what
11 you do, Trooper. I mean, we go off the roads all the
12 time. We are to, we are to, you know, do community
13 service. We are to, you know, do loops, stop on the
14 shoulder, make contacts with people. Specifically,
15 this was more like, if you are going to be somewhere,
16 put yourself out on it. That simple.
17 Q. And where you were being if I heard you
18 correctly, you had a position, a volunteer position
19 working with the baseball squad.
20 A. Correct.
21 Q. And this was about, I guess, 3:30 in the
22 afternoon?
23 A. Yes, that's correct.
24 Q. That would be the end of the school day?
25 A. That's correct.

Page 47

- 1 Q. That would be the beginning of practice?
2 A. Correct.
3 Q. And your goal was to go out and check
4 out the practice?
5 A. Not necessarily, just to show up and see
6 how they are doing, and we had a game just before,
7 I'm in full uniform, not that I was going to engage
8 in any practice. I showed up, they had never seen --
9 my players had never seen me in uniform, so I showed
10 up, and they -- between the time that I actually
11 showed up and I probably spent with them maybe ten,
12 fifteen minutes, because the head coach was actually
13 briefing them. They were all sitting down in the
14 dugout when Mr. Martinez approached me at the field.
15 Q. So for 10 or 15 minutes you stood around
16 sort of listening to the briefing, kind of being part
17 of that scene?
18 A. Correct.
19 Q. And it's ten or fifteen minutes you were
20 not out on the roadway patrolling; fair enough?
21 A. But I have my radio on which I can hear
22 all the transmissions that were going over the air,
23 whether, you know, another trooper is in my area or
24 needed help or so forth and so on.
25 Q. Okay. Now, so this is not the first

Page 48

- 1 time you had been to that baseball field, obviously,
2 you had been there many times?
3 A. No, actually not in my uniform.
4 Q. I am not asking about your uniform.
5 A. Yes, I went to the school.
6 Q. Did you graduate from the school?
7 A. No, I did not.
8 Q. But you went -- you'd go there for
9 practices?
10 A. I practice -- every effort I could make,
11 I would be there, correct.
12 Q. Is there some particular part of the
13 team you were responsible for?
14 A. The outfielders.
15 Q. Were you an outfielder?
16 A. I was an outfielder.
17 MR. LOUGHRY: Rivera 4.
18 (Exhibit Rivera 4, a two-page photocopy
19 of maps, is marked for identification.)
20 BY MR. LOUGHRY:
21 Q. By the way, before I hand you this, in
22 my understanding or detecting that correctly, that
23 you thought your supervisor Murtha was wrong in his
24 determination and his wording here, that you had --
25 that you had made an error in basic patrol function?

Page 49

- 1 Did you think he was wrong?
2 A. Not necessarily wrong. I am not to say
3 he was wrong, but obviously, in the conversation and
4 working with Tommy Murtha, we know what we're talking
5 about, whereas where we could go, where we can't go,
6 so this then become a specific to where I was at the
7 time. It's sort of like, well, the interest of me
8 being on campus or, you know, at a particular store,
9 why would I necessarily be at -- why do you see
10 officers at a particular Wawa at a certain time.
11 Maybe breakfast, maybe it's a time where they meet
12 up. It's like the water tank, or it's the Wawa for
13 coffee or whatever drinks, you know, you are
14 interested in.
15 Q. You didn't go over to the Lawrenceville
16 School because you thought of it as a high crime
17 area?
18 A. No, community service.
19 Q. This is one of the most exclusive
20 expensive high schools in the United States?
21 A. It's one of them, yes.
22 Q. It's a whole campus, isn't it?
23 A. That's correct.
24 Q. I'm going to show you Rivera 4 --
25 MR. MARSHALL-OTTO: Just one moment.

Pages 46 to 49

Page 50

1 Just a housekeeping issue before we move on. I
 2 want to note that the last three documents that
 3 were marked are marked CONFIDENTIAL and,
 4 therefore, the testimony surrounding them
 5 should be marked as confidential in the
 6 transcript as well.
 7 MR. LOUGHRY: We should probably take
 8 care of that at the end of the deposition,
 9 because a lot of these documents came in under
 10 the protective --
 11 MR. MARSHALL-OTTO: Right. Fair enough.
 12 MR. LOUGHRY: But you don't need to keep
 13 bringing it up. Just at the end of the
 14 deposition. Let's do it that way.
 15 MR. MARSHALL-OTTO: Sure. That works.
 16 MR. LOUGHRY: This one is not one of
 17 those documents.
 18 BY MR. LOUGHRY:
 19 Q. Showing you what is marked now as Rivera
 20 4 which is my best attempt to get a small map off of
 21 Google Earth of this area. Do you recognize any sort
 22 of vantage point, landmarks here, like a highway or a
 23 roadway, Lawrence road, for example?
 24 A. **Correct, uh-hum.**
 25 Q. Now, I am going to give you a pen for a

Page 52

1 that direction you were traveling?
 2 A. **Yeah. (Witness complies).**
 3 Q. And so you took that exit, and did you
 4 go up Lawrence Road?
 5 A. **Lawrence Road, correct. I got off and**
 6 **then middle exit there where it would be the**
 7 **Lawrenceville, and then that first immediate right.**
 8 Q. And what's that called?
 9 A. **Would then become Franklin Corner Road.**
 10 Q. All right. And so you went on to
 11 Franklin Corner Road?
 12 A. **Franklin Corner Road.**
 13 Q. Did you have to make another left or
 14 something?
 15 A. **Yes, and then a quick left onto what is**
 16 **Lewisville Road.**
 17 Q. All right. And then how did you proceed
 18 from there?
 19 A. **And then I made a left onto the back**
 20 **entrance. But this is not accurate because what this**
 21 **would be, Woods Drive -- is it Woods Drive? Yeah.**
 22 **Because Woods Drive, where's the baseball field on**
 23 **this? This is not indicating where the baseball**
 24 **field is.**
 25 Q. I'll hand you a couple more.

Page 51

1 second and ask if you can circle a couple of things.
 2 A. **Sure.**
 3 Q. You see on this little map where Route
 4 95 is located?
 5 A. **95, correct.**
 6 Q. Can you put a circle around 95?
 7 A. **Sure. (Witness complies).**
 8 Q. It looks like there's an Exit 7A off of
 9 that highway?
 10 A. **Yes.**
 11 Q. That goes on to something called
 12 Lawrence Road?
 13 A. **Yes.**
 14 Q. That's also known as Route 206?
 15 A. **Correct.**
 16 Q. That's the road that heads up to
 17 Princeton?
 18 A. **Correct.**
 19 Q. Did you take that exit to leave 195 that
 20 day to go up to the Lawrenceville School?
 21 A. **Correct.**
 22 Q. In which direction were you coming from,
 23 from the west or from the east?
 24 A. **From the east traveling west.**
 25 Q. If you want to mark with a dotted line

Page 53

1 A. **Yeah, because this is not. . .**
 2 Q. The baseball field is in the vicinity of
 3 Woods Drive, is it?
 4 A. **I would -- excuse me. See, when I went**
 5 **there and to the day, I don't know what roads are. I**
 6 **know through the back entrance it's Bakers Gate and**
 7 **then your first right would take you to the varsity**
 8 **field which you pass what is used for the soccer,**
 9 **lacrosse and then in the back, obviously, the varsity**
 10 **baseball field. So I would take it that it's -- the**
 11 **baseball field is in this area what looks like Woods**
 12 **Drive and this is, what I would think is the lake**
 13 **(Indicating).**
 14 Q. All right. So you made a mark on this
 15 drawing where you think the baseball field is. Why
 16 don't you put BB next to that.
 17 A. **Somewhere in this area right here**
 18 **(Indicating).**
 19 MR. LOUGHRY: Can you mark this as
 20 Rivera 5?
 21 (Exhibit Rivera 5, the Lawrenceville
 22 School Google map, two pages, is marked for
 23 identification.)
 24 THE WITNESS: Because in this area --
 25 well, this doesn't show but in this area there

Pages 50 to 53

Page 54

1 are homes off of Woods Drive that go all around
 2 what looks like a cul-de-sac on this, on this
 3 map.
 4 MR. LOUGHRY: We're going to stop for a
 5 moment so the reporter can mark this.
 6 THE WITNESS: Okay.
 7 (Exhibit Rivera 6, the Woods Drive East
 8 cul-de-sac Google Map, is marked for
 9 identification.)
 10 BY MR. LOUGHRY:
 11 Q. Okay. Now, let me show you what I've
 12 marked 5 and 6, again, courtesy of Google.
 13 A. Yeah.
 14 Q. It's an aerial satellite photo. Now, on
 15 this Rivera 5, you recognize -- I'll represent to you
 16 this came off the website of the school. That's
 17 where I'm getting it.
 18 MR. MARSHALL-OTTO: Sure.
 19 MR. LOUGHRY: Unfortunately, I didn't
 20 have a color printer handy.
 21 BY MR. LOUGHRY:
 22 Q. Do you recognize the baseball field
 23 here?
 24 A. Yes.
 25 Q. It looks like there's some kind of a

Page 56

1 A. The third base.
 2 Q. On the third base?
 3 A. Correct.
 4 Q. All right. And so you didn't park your
 5 car next to that dugout, did you?
 6 A. No. It's a grassy area. I left it on
 7 the cul-de-sac. If I remember correctly, I was
 8 facing what would be -- this is what, this is west/
 9 east. This would be north. So that would be the
 10 south. So I was around the bend facing southbound
 11 near the first baseline.
 12 Q. All right. And you're marking that?
 13 A. Yes, the first baseline here. Well, Let
 14 me see here. Yeah, this is third base. This is
 15 first base here, over here, first base (Indicating).
 16 Okay. And so I was parked, patrol car, P.C.
 17 Q. And that's the place you parked your
 18 car?
 19 A. Yes.
 20 Q. You didn't move it until you left the
 21 scene?
 22 A. That's correct.
 23 Q. You know Vicky Martinez, right?
 24 A. That's correct.
 25 Q. You had a relationship with her?

Page 55

1 cul-de-sac?
 2 A. Correct.
 3 Q. Off to the right of it, so to speak?
 4 A. Yes.
 5 Q. And is this the baseball field that you
 6 were visiting?
 7 A. That is correct, the varsity baseball
 8 field.
 9 Q. All right. And on R-6.
 10 A. R-6, okay.
 11 Q. This is a little bit of a larger view of
 12 that cul-de-sac.
 13 A. Uh-hum.
 14 Q. The Woods Drive East cul-de-sac?
 15 A. Woods Drive East cul-de-sac, correct.
 16 Q. You mentioned a dugout, I think, where
 17 the coaches were talking to the baseball squad?
 18 A. Yes.
 19 Q. Is that on the first baseline?
 20 A. There are two.
 21 Q. All right.
 22 A. There's one on the first base and then
 23 there's another one on the third base.
 24 Q. Which dugout, do you remember, was he
 25 talking about?

Page 57

1 A. I did.
 2 Q. You've been in her house before?
 3 A. Yes.
 4 Q. Can you approximate on that drawing
 5 there where her house was?
 6 A. Across the cul-de-sac. I don't know,
 7 something here, would be about three-quarters, well,
 8 no, it's on the eastbound side of the cul-de-sac
 9 halfway through, halfway up.
 10 Q. Let's take a look at R-5 for a moment
 11 which is the aerial photograph, you can see it,
 12 instead of houses or housing units that appear to be
 13 arranged around at least part of the cul-de-sac, some
 14 of them are off, one might say the third baseline,
 15 and some of them are off --
 16 A. Right.
 17 Q. Do you remember the number of her house?
 18 A. No.
 19 Q. Do you remember how many houses from the
 20 end of the row of houses was hers?
 21 A. It went closer to the start of the turn
 22 of the cul-de-sac as you start exiting out.
 23 Q. All right.
 24 A. You go in and then around so it's closer
 25 to the start of the bend.

Pages 54 to 57

Page 58

1 Q. All right. So there's a row of houses
2 that you can see on this photograph, correct?
3 A. **Correct.**
4 Q. This is sort of the last house, if you
5 will, on the end?
6 A. **Yes.**
7 Q. That was not her house?
8 A. **No.**
9 Q. How many houses away from that was hers
10 approximately?
11 A. **It's one of these three houses. I think**
12 **it's one of these two houses to be exact.**
13 Q. Circle the ones that you say was on
14 hers. I understand there's no numbers on the house.
15 A. **One of these two houses (Indicating).**
16 Q. The record can reflect that the witness
17 has circled a couple of houses that are, they are
18 really the fifth or the sixth house from the end of
19 the row of houses.
20 A. **Okay.**
21 Q. And there was a softball field in that
22 area as well, right?
23 A. **A softball field? Oh, on the other**
24 **side.**
25 Q. On the other side. You probably don't

Page 60

1 A. **I did.**
2 Q. Was that back in 2011?
3 A. **Correct.**
4 Q. Around Christmastime?
5 A. **Correct.**
6 Q. And how long did this affair last?
7 A. **Exactly? I don't know exactly. A few**
8 **months.**
9 Q. It wasn't like three days?
10 A. **No, no, no.**
11 Q. Some of it was around Christmastime
12 2011?
13 A. **Correct.**
14 Q. You got to know her children?
15 A. **Yes.**
16 Q. You spent some time with them?
17 A. **No, never spent any time with the**
18 **children.**
19 Q. She never brought them over to your
20 place?
21 A. **Oh, in that sense, yes, she did, yes, in**
22 **the beginning.**
23 Q. In the beginning.
24 A. **And we were friends then. We were not**
25 **involved when we had kids meet my kids.**

Page 59

1 see it in that photograph.
2 A. **Yeah.**
3 Q. On the other side of that row of houses?
4 A. **Yes.**
5 Q. And among her duties at the school, she
6 was a softball coach or assistant softball coach or
7 something like that?
8 A. **I believe so, yes. I believe so, yes.**
9 Q. Now, prior to April the 26th, 2013, when
10 was the last time you had been in that house of Vicky
11 Martinez?
12 A. **I don't know. Oh, that was years, if I**
13 **remember correctly. Because when this whole incident**
14 **happened, I hadn't spoken to her for a couple of**
15 **years.**
16 Q. Okay. Let me just -- I guess I want to
17 get to a sequence of events and ask you about the
18 State Police and coaching job. I am not trying to
19 drive you crazy. I just want to double back on some
20 things. Let's talk about this for a minute since you
21 brought this up.
22 A. **I brought it up?**
23 Q. What do you mean?
24 A. **I brought it up, and you responded.**
25 Q. You had an affair with Vicky?

Page 61

1 Q. You had her kids meet your kids?
2 A. **Correct. They were just friends. We**
3 **knew each other from the school. She was a teacher**
4 **-- well, an admissions officer, and I was, you know,**
5 **alumni, and also I volunteered at the school.**
6 Q. But there was a time when you were
7 actually, I'm going to use the euthymism here, you
8 were being intimate with her, right?
9 A. **Yeah.**
10 Q. Physically intimate, right?
11 A. **Right.**
12 Q. And that was at least Christmastime
13 2011?
14 A. **It's safe to say, yes.**
15 Q. And some months after that?
16 A. **Correct.**
17 Q. How many months?
18 A. **Two or three months.**
19 Q. And after that, you had no further --
20 A. **That's correct.**
21 Q. No further intimacy?
22 A. **Correct.**
23 Q. And no further contact with her?
24 A. **No, I had contact with her. Phone**
25 **conversations of that nature.**

Pages 58 to 61

Page 62

1 Q. After the several months of having an
2 affair?
3 A. Correct.
4 Q. So you had contact with her during the
5 year 2012?
6 A. Yes.
7 Q. And you had some physical intimacy with
8 her, the year 2012?
9 A. I may have, correct.
10 Q. But when that stopped, you maintained
11 contact with her?
12 A. Yes.
13 Q. And why were you maintaining contact
14 with her?
15 A. I think we -- we felt a connection with
16 regards to what she was doing as an admissions
17 officer, also, her interest in educating kids, my
18 thing is, it's important, and also being an alumni, I
19 just thought, you know, keeping a mutual relationship
20 was okay. We're, you know, adults.
21 Q. And you are telling me then it wasn't a
22 personal relationship anymore, more of a professional
23 relationship?
24 A. Yeah. I mean, we realized what we were
25 doing, and we felt that it was not something we

Page 64

1 you had the incident with Mr. Martinez, I want you to
2 look back in time and say when was the last time you
3 had spoken to her.
4 A. At least a year or more. Safe to say it
5 was a good period of time. Exactly, because, I just,
6 I hadn't spoken to her whatsoever.
7 Q. Okay. Now, so I am just doing the math.
8 We're going back, if we could say a year, it would
9 have been the last time you had spoken to her at all
10 was around April of 2012, a year over?
11 A. Roughly.
12 Q. Now, you had made a mention about the
13 State Police were well aware of your activity as an
14 assistant coach --
15 A. That's correct.
16 Q. -- of the baseball team?
17 A. That's correct.
18 Q. And is that because you had filed some
19 kind of request for permission to serve in that
20 capacity?
21 A. Yes, sir.
22 Q. And does the State Police have a
23 procedure for you filing for, I guess for want of a
24 better word, outside employment?
25 A. That's exactly the word.

Page 63

1 should continue.
2 Q. And if we take the date of April 26,
3 2013, if you look back in time, when was the last
4 time you had spoken to her prior to that?
5 A. Actually, that was 2011/12. Like I
6 said, probably a couple years in between that lapsed
7 since the last time I saw her and the day of the
8 incident when she showed up.
9 Q. A couple years went by between the last
10 time you saw her and August -- April 26, 2013?
11 A. No. Seeing her, I had spoken to her on
12 and off, what have you, but we had broken it off. So
13 we were no longer intimate.
14 Q. All right. Sounds like you are telling
15 me that certainly then in the year 2013, you were not
16 physically intimate?
17 A. Correct.
18 Q. And well back into 2012, many months
19 back in 2012, you were not physically intimate?
20 A. 2012? I saw her in '11 and '12. It was
21 few months.
22 Q. When was the last time you had spoken
23 with her prior to April 26, 2013?
24 A. April 26, '13?
25 Q. The day you were there at the school and

Page 65

1 Q. Let me show you a couple of things here.
2 I have documents. As you recall it, were you clear
3 that this was a volunteer position?
4 A. Yes. It was approved, to be exact. I
5 had submitted paperwork that I had an interest in
6 serving under the assistant baseball coach at the
7 Lawrenceville School.
8 Q. As you recall in making your request,
9 you specifically identified that it would be as
10 baseball coach on that baseball team?
11 A. Yes.
12 Q. The varsity baseball team?
13 A. Yes.
14 Q. This was varsity baseball team?
15 A. Varsity baseball team.
16 Q. Even though you weren't going to be --
17 it's a volunteer position, right?
18 A. Correct.
19 Q. You were not going to be compensated?
20 A. Not at all.
21 Q. You still needed to do that, make the
22 request?
23 A. Yes.
24 Q. And you did make the request?
25 A. Yes.

Pages 62 to 65

Page 66

1 Q. And it was approved?

2 A. Yes.

3 MR. LOUGHRY: Okay. Let me have a

4 couple more documents marked.

5 (Exhibit Rivera 7, New Jersey State

6 Police - Request to Engage in Outside Activity,

7 CONFIDENTIAL, NJSP MARTINEZ 099 through 100, is

8 marked for identification.)

9 BY MR. LOUGHRY:

10 Q. I'll show you what's been marked Rivera

11 7. I am going to clear this away. I'll leave this

12 here in case you have a question.

13 A. Sure. You want me to keep any in front

14 of me?

15 Q. Right here is good. This is Rivera 7.

16 This is one of those confidential documents, I'm

17 pretty sure. Now, this is -- do you recognize this

18 form, Prospective Employment Information form?

19 A. Okay. No, this is another.

20 Q. I understand. I just want to get the

21 form straight.

22 A. Yup.

23 Q. At the top, it says, can we agree,

24 Request to Engage in Outside Activity?

25 A. Right.

Page 67

1 Q. Actually, at the top at least it doesn't

2 actually imply strictly speaking to employment?

3 A. Right.

4 Q. But it does talk about outside activity.

5 A. Correct, uh-hum.

6 Q. And by that you understood it to mean

7 some commitment you are going to make to some kind of

8 regular job or work that's not State Police work; is

9 that right?

10 A. Yeah.

11 Q. So in this instance, this looks like it

12 comes from the year 2010, and it has something to do

13 with importing cigars from Puerto Vallarta, Mexico.

14 A. Yes.

15 Q. And this was a request you made to be

16 allowed to work in that capacity being an employee?

17 A. So this is one of two requests. This

18 was my outside employer, my, I was actually doing

19 what this indicates, but I also indicated -- I also

20 submitted and got approved for being an assistant

21 baseball coach. So what you are presenting to me,

22 yes, correct.

23 Q. This was another?

24 A. This was another. I actually ventured

25 into the importation of cigars.

Page 68

1 Q. Did you actually do that?

2 A. Yes, I do.

3 Q. You still do?

4 A. I do, correct. Well, actually, I've

5 actually just recently stopped because of the high

6 taxes, we are being killed with the taxes. It's not

7 worth importing cigars.

8 Q. But you did it for some period of time?

9 A. Absolutely, and I had a lot of fun.

10 Q. Okay.

11 A. Success, too.

12 MR. LOUGHRY: Let me get another

13 document marked.

14 Rivera 8.

15 (Exhibit Rivera 8, New Jersey State

16 Police, Request to Engage in Outside Activity,

17 CONFIDENTIAL, NJSP MARTINEZ 103 through 105, is

18 marked for identification.)

19 BY MR. LOUGHRY:

20 Q. Just a couple other questions I wanted

21 to ask generally.

22 A. By the way, I still have plenty for

23 sale, so they are great cigars.

24 MR. LOUGHRY: Off the record.

25 (Off-the-record discussion.)

Page 69

1 BY MR. LOUGHRY:

2 Q. So if I understood correctly, your goal

3 in doing the cigar business, it sounds like you were

4 kind of interested in cigars?

5 A. Yeah, I mean, I've been for years.

6 Q. But you wanted to make some money?

7 A. As a business, absolutely. You know,

8 it's a business. Your goal is to -- my goal was to

9 supply a product that everyone would enjoy, and with

10 the means -- with the idea of that, you know, revenue

11 would be a plus.

12 Q. Right. So you would hope to get some

13 compensation?

14 A. Yeah, absolutely. Absolutely.

15 Q. But in terms of the baseball coach

16 stuff, that was something without compensation?

17 A. Correct, yeah, uh-huh. That was my

18 giving back for the love of the game.

19 Q. Okay. Let me show you what's Rivera 8.

20 Now, this seems like another request to engage in

21 outside activity for another business you formed,

22 Young People in Training, LLC?

23 A. Yes, that's correct.

24 Q. This was a business where you were going

25 to provide some personal training services, you have

Pages 66 to 69

Page 70

1 brochures, websites, pamphlets offering information
 2 on healthy living.
 3 **A. Yup.**
 4 **Q. Was this some kind of a contradiction**
 5 **with getting people to smoke cigars?**
 6 **A. No, this was two totally different --**
 7 **myself, I enjoy a good solid, you know, road cigar,**
 8 **and that was something that I had ventured for years,**
 9 **and I found an opportunity, so I started that. In**
 10 **fact, I started the Young People in Training before**
 11 **the cigars.**
 12 **Q. Before the cigars.**
 13 **A. And this was official because of the**
 14 **time period but prior to this, I had been smoking**
 15 **cigars when I was in college.**
 16 **Q. This Young People in Training, this was**
 17 **another business idea that you had?**
 18 **A. That was correct.**
 19 **Q. And this was approved as well?**
 20 **A. I did.**
 21 **Q. Did you do some business as Young People**
 22 **in Training, LLC?**
 23 **A. I did.**
 24 **Q. And it does say -- most of the way down**
 25 **the page on the first page, this is an application**

Page 72

1 **flexibility, and agility.**
 2 **Q. And those are various tools of the**
 3 **trade, so to speak?**
 4 **A. Absolutely and then some.**
 5 **Q. I've gone through from your personnel**
 6 **file and I will represent to you those are the two**
 7 **requests I could find for permission to engage in**
 8 **outside employment, and I haven't found one for being**
 9 **an assistant baseball coach. Do you recall one?**
 10 **A. Absolutely.**
 11 **Q. And you got approval?**
 12 **A. I got approval.**
 13 **Q. Do you have copies?**
 14 **A. I more than likely would have a copy.**
 15 **If my memory serves me correct, I probably have a**
 16 **copy.**
 17 **Q. (REQUEST) All right. So I am making a**
 18 **request on the record of your counsel that I be given**
 19 **a copy. I had an extensive personnel file given to**
 20 **me, and unless my eyesight is failing me or my**
 21 **diligence, I could not find that application.**
 22 **A. Oh, absolutely.**
 23 **Q. Nor an approval for that.**
 24 **MR. MARSHALL-OTTO: We'll take a look**
 25 **for that. Could you follow up with a letter?**

Page 71

1 form, it says will you be compensated, you checked
 2 the block yes?
 3 **A. Uh-hum.**
 4 **Q. Did you get some compensation for it?**
 5 **A. Very little.**
 6 **Q. But you had some paying customers?**
 7 **A. How would I? I mean, some people --**
 8 **basically where it turned out they would give me,**
 9 **because I didn't find myself, you know, accepting,**
 10 **because it was something that just came easy to me.**
 11 **In fact, I utilized the Lawrenceville School Field**
 12 **House for the area where I trained, I trained the**
 13 **kids. So there were family members that would offer,**
 14 **and I would say, you know, don't worry about it. And**
 15 **they would say, well, please, you know, if I can**
 16 **contribute, and basically, I would say, you know**
 17 **what, I will take it and buy some more equipment that**
 18 **I would use for the kids.**
 19 **Q. What kind of equipment? Weights?**
 20 **A. No not necessarily weights. More like,**
 21 **because my focus was, you know, speed and agility.**
 22 **So like I would buy the bands, the resistance bands,**
 23 **medicine balls, lightweight medicine balls, sort of**
 24 **the -- let's see what else, the parachute, the**
 25 **resistant parachute. So they learn plyometrics,**

Page 73

1 **MR. LOUGHRY: Sure.**
 2 **MR. MARSHALL-OTTO: Thank you.**
 3 **THE WITNESS: You know, in fact,**
 4 **everyone knew that I had gone to Lawrenceville**
 5 **School and I was a baseball coach there. So it**
 6 **was not, you know, a surprise, by no means.**
 7 **BY MR. LOUGHRY:**
 8 **Q. Now, I want to go back to the CAD report**
 9 **for a moment. The caption on Rivera 1 said this was**
 10 **a Trespass Complaint?**
 11 **A. Correct.**
 12 **Q. Did you ever file a complaint against**
 13 **Mr. Martinez for trespass?**
 14 **A. No. Well, no, I think we did. We did.**
 15 **Trespassing, resisting arrest, and disorderly**
 16 **persons, I think it was, if I remember correctly.**
 17 **Q. Okay. Let me see what I can find here.**
 18 **Just give me a moment.**
 19 **A. And if I could, counsel, when we brought**
 20 **him back, when I arrived at the Hamilton Station and**
 21 **placed him in the holding cell, Mr. Martinez clearly**
 22 **was, you know, beyond disorderly.**
 23 **MR. MARSHALL-OTTO: I don't know if**
 24 **there's a question pending. You have to answer**
 25 **the questions that he's asking.**

Pages 70 to 73

Page 74

1 THE WITNESS: All right. Thank you.
2 (Exhibit Rivera 9, the State of New
3 Jersey vs. Joel Martinez, CONFIDENTIAL, NJSP
4 MARTINEZ 047 through 048, is marked for
5 identification.)

6 MR. LOUGHRY: This is Rivera 9. I
7 represent to you, Kai, that this came out of, I
8 believe this came out of the discovery file
9 from the municipal court. And my perception
10 is, these are essentially the same document,
11 but I can see that there was a cross-out on
12 one, so I have both. But I think it's the same
13 document. It's a little hard to read the
14 summons numbers at the top 387, you see that.

15 MR. MARSHALL-OTTO: Yup. This looks
16 like the one we produced to you, bates NJSP
17 Martinez 047.

18 MR. LOUGHRY: You're right. The thing
19 is I have them both together. I am not trying
20 to mislead anybody. I see on the second page,
21 there's a slightly different date entries, and
22 I think the substance of the document is the
23 same. In other words, I don't think they are
24 two separate summonses. I think it's the same
25 summons. Can we go off the record?

Page 76

1 Q. One of them is for petty disorderly
2 persons offense for 2C:33-2B, that's the harassment
3 statute, correct?

4 A. I believe so. I'm not actually sure if
5 it's exactly that, but yeah.

6 Q. Well, it's not the resisting arrest
7 statute. Isn't that 2C:29?

8 A. Again, that may be correct.

9 Q. And you also have a petty disorderly
10 persons offense. There's two petty disorderly
11 persons offense. The first is 33-2B; the second, it
12 looks like it's -- does say harass, subject another
13 to offensive touching by placing his hands on Trooper
14 Rivera, and that's 2C:33-4B petty disorderly. Do you
15 see that?

16 A. Uh-hum, correct.

17 Q. Now, there's no charge on here for
18 trespassing?

19 A. Correct.

20 Q. And no charge on here for resisting
21 arrest?

22 A. No.

23 Q. There's no charge here for anything but
24 these two, whatever that 33-2B and 33-4B are?

25 A. Correct.

Page 75

1 MR. MARSHALL-OTTO: Yes, let's.
2 (Off-the-record discussion.)

3 MR. LOUGHRY: Back on the record.
4 BY MR. LOUGHRY:

5 Q. Trooper, I presented to you with Rivera
6 9, which was produced to me as copy of the summons
7 that was issued against Mr. Martinez. It's the only
8 one I know about anyway. I explained to your counsel
9 there's two pages, it looks like the same charge, but
10 there's a slight alteration in some dates on the
11 second page in the Certification or Date to Appear
12 area.

13 A. All right.

14 Q. On the second page. I've compared the
15 wording, the actual charge, and it looks like it's
16 identical.

17 A. Okay.

18 Q. Take a look for yourself.

19 A. Yeah. I've actually read both, both
20 pages, and they are written, what looks to be exactly
21 the same.

22 Q. So this sheet reflects two charges,
23 doesn't it, one summons, but there are two charges on
24 it.

25 A. Right.

Page 77

1 Q. Do you know of any other charges that
2 you actually filed against Mr. Martinez?

3 A. Actually, I did not -- this is where --
4 when the Detective Bureau jumped in and wrote up the
5 charges against Mr. Martinez based on what I told
6 them had happened.

7 Q. So it does say -- the Certification
8 says, Signed: Trooper Rivera, Jr.?

9 A. Correct.

10 Q. That's not your signature, it's typed?

11 A. That is typed, correct.

12 Q. Did you ever sign these?

13 A. No.

14 Q. Did anyone ask you to sign them?

15 A. No, it's in the system as you being part
16 -- well, as the primary trooper, that which is then
17 generated automatically in the system. So you don't
18 sign the charges. It comes up under your name and it
19 types it out as if your signature is in the system.

20 Q. Did you certify to the accuracy of these
21 charges?

22 A. Did I certify?

23 Q. Yes.

24 A. Yeah, I mean, I told them what happened,
25 and these are the charges that were going to come

Pages 74 to 77

Page 78

1 down on him for what had happened.
 2 Q. Let's look at the Certification box on
 3 the first page of this document.
 4 A. Uh-hum.
 5 Q. Quote, I certify that the foregoing
 6 statements made by me are true?
 7 A. Correct.
 8 Q. That's in reference to the information
 9 above --
 10 A. Right.
 11 Q. -- that sets out what the alleged
 12 allegations are?
 13 A. Correct.
 14 Q. And then your name appears, although not
 15 a signature, right?
 16 A. Uh-hum.
 17 Q. And there's no other name certifying
 18 this?
 19 A. That's correct.
 20 Q. Did you certify to the accuracy of these
 21 charges?
 22 A. In that case, no. I -- we discussed
 23 with the Detective Bureau what those charges were,
 24 they went into the system, and me being the trooper
 25 handling the case, that's how, I guess, that's how

Page 79

1 the system is created.
 2 Q. Do you know if anybody else who provided
 3 the information to those who typed up this form
 4 besides yourself?
 5 A. Well, who actually wrote it up was a
 6 detective.
 7 Q. Do you know anybody -- well, the
 8 detective was not there when these things happened,
 9 was he?
 10 A. What happened?
 11 Q. Whatever happened out at the
 12 Lawrenceville School at the baseball field between
 13 you and Mr. Martinez, the detective wasn't there?
 14 A. No, correct.
 15 Q. The only person there that gave
 16 information to the detective was you?
 17 A. Correct.
 18 Q. As far as you know, the detective did
 19 not go out and interview anybody else on the 23rd of
 20 April, did he?
 21 A. No.
 22 Q. Am I correct?
 23 A. Correct.
 24 Q. Whatever information appears here, it's
 25 a fair conclusion that it had to have come from you?

Page 80

1 A. Correct.
 2 Q. It says at the bottom of this summons,
 3 not at the bottom, underneath the certification, the
 4 complaining witness is a law enforcement officer,
 5 that would be you?
 6 A. Correct.
 7 Q. And a judicial probable cause
 8 determination is not required prior to issuance of
 9 this complaint summons. Do you see that?
 10 A. Yes.
 11 Q. Does that strike you as accurate, that
 12 there was no judicial probable cause determination
 13 made here?
 14 A. No, there was probable --
 15 MR. MARSHALL-OTTO: Objection to form.
 16 MR. LOUGHRY: Okay. Let me try it
 17 again.
 18 BY MR. LOUGHRY:
 19 Q. Would you agree with me that the
 20 suggestion here is that a judicial probable cause
 21 determination is not required prior to the issuance
 22 of this complaint summons?
 23 A. Right. Judicial being a judge?
 24 Q. Yes.
 25 A. Correct.

Page 81

1 Q. Have you ever in your experience as a
 2 trooper called a Municipal Court judge, for example?
 3 A. Uh-hum.
 4 Q. To ask him to authorize, let's say, the
 5 issuance of an arrest warrant?
 6 A. Absolutely, yes.
 7 Q. Have you called the municipal court or
 8 superior court judge to ask for the issuance of an
 9 arrest warrant?
 10 A. Yes.
 11 Q. And in those conversations you would
 12 have to satisfy to the judge or the official that
 13 there's probable cause?
 14 A. That's correct.
 15 Q. Now, that sort of conversation, if I'm
 16 understanding correctly, did not happen with respect
 17 to this charge; am I right?
 18 A. That's correct.
 19 Q. As far as you know, there's no judicial
 20 officer, whether it's a municipal court clerk or a
 21 municipal court judge or a Superior Court judge that
 22 had anything to do with the issuance of this charge?
 23 A. That's correct.
 24 Q. Did you ever go to a probable cause
 25 hearing on this?

Pages 78 to 81

Page 82

1 A. Probable cause, no.
 2 Q. Now, when this case --
 3 A. Actually, let me go back, because this
 4 is at the criminal level, this is at the municipal
 5 court in Lawrence. We did have a meeting. A
 6 probable cause hearing? I don't recall, but
 7 something that maybe the prosecutor, the municipal
 8 court prosecutor may have had with the judge.
 9 Q. You weren't there for it?
 10 A. No, I was not.
 11 Q. You couldn't say one way or the other?
 12 A. One way or the other, no.
 13 Q. This case was dismissed in the municipal
 14 court, wasn't it?
 15 A. That's correct. And the reason being?
 16 Q. There's no question pending.
 17 A. Okay.
 18 MR. MARSHALL-OTTO: Off the record.
 19 (Off-the-record discussion.)
 20 (Exhibit Rivera 10, New Jersey State
 21 Police Investigation Report, NJSP MARTINEZ 040
 22 and 041, CONFIDENTIAL, is marked for
 23 identification.)
 24 By MR. LOUGHRY:
 25 Q. So when you arrived at the field, let's

Page 84

1 screaming and hollering. Well, more than that,
 2 but. . .
 3 Q. He was screaming and hollering at you?
 4 A. Yes, cursing, profanity, basically
 5 saying, you know, this son of a bitch, he has no
 6 business being here, and he had an affair with my
 7 wife, and as he's getting closer, I turned to the
 8 head coach -- well, prior to that, Blake Eldridge
 9 says: You know who that is? And I say yeah, I know
 10 who that is, that's Mr. Martinez, that's Vicky's
 11 husband. And he proceeds to walk over to the fence,
 12 the fence line and makes his way closer to where we
 13 were. And actually stopped and along the side of the
 14 dugout, which is, you know, cement-like wall, and
 15 he's, you know, screaming and hollering, bent over,
 16 and such, calling out to the players, you know: Your
 17 fucking coach, you know, had an affair with my wife.
 18 He has no business being here, so forth and so on.
 19 And I looked at Coach Champ Atlee, and I said:
 20 Coach, I'll take care of this, you know.
 21 Q. Let me stop you there. So is there some
 22 kind of gate that lets you on to the actual surface
 23 of the field?
 24 A. Correct.
 25 Q. Did he come inside the gate?

Page 83

1 go back to when you went over to the baseball field,
 2 you parked your car, you went down to the field, the
 3 players were in the dugout area?
 4 A. In the dugout, correct.
 5 Q. On the third base side?
 6 A. On the third base side, yes.
 7 Q. And the coaches were speaking with them?
 8 A. Correct.
 9 Q. And did you go and sit with the players?
 10 A. No.
 11 Q. Or were you more standing with the
 12 coaches?
 13 A. I was outside standing by the coach. I
 14 was standing exactly next to assistant coach Blake
 15 Eldridge.
 16 Q. Now, at some point you became aware of
 17 Mr. Martinez being nearby, I guess on the other side
 18 of the fence or something?
 19 A. Yes.
 20 Q. And he was shouting?
 21 A. Correct.
 22 Q. And you knew Mr. Martinez?
 23 A. Yes, I caught sight of him. In fact,
 24 what would be, when he came into my view was, he was,
 25 what would be the equivalent of behind the backstop

Page 85

1 A. No.
 2 Q. So he's outside the gate?
 3 A. He's outside.
 4 Q. And he was yelling, did you say he was
 5 bent over and leaned into the dugout? Did I get that
 6 right?
 7 A. Yeah. The fence line, it butts up to
 8 the dugout, he's bent over and screaming towards the
 9 kids, profanity about myself and what had happened.
 10 Q. All right. So, you had had an affair
 11 with his wife?
 12 A. That's correct.
 13 Q. Apparently he knew about it?
 14 A. He was divorced by then or in the
 15 proceeding.
 16 Q. How did you know that?
 17 A. I had spoken to her.
 18 Q. Vicky Martinez?
 19 A. Yes, they were in the process of getting
 20 divorced.
 21 Q. Okay. So he was using profanity using
 22 the F word?
 23 A. F word, everything under the sun as far
 24 as --
 25 Q. Well, let's stop there for a minute.

Pages 82 to 85

Page 86

1 A. Yes, sir.
 2 Q. You heard the F word?
 3 A. Yes.
 4 Q. You heard it loud and clear?
 5 A. Heard it loud and clear.
 6 Q. When he was yelling at you and you were
 7 out there with the coaches?
 8 A. Yes, and he's pointing at me as he's
 9 speaking to the players and loud, saying, what had
 10 happened.
 11 Q. And you heard that word repeatedly, the
 12 F word?
 13 A. Including the F word.
 14 Q. It wasn't just the F word. He was
 15 saying certain things?
 16 A. Yes.
 17 Q. He was saying things such as I am going
 18 to use that word so we have the reality here from
 19 your standpoint.
 20 A. Yes, sir.
 21 Q. What the fuck are you doing here?
 22 A. Yes, sir.
 23 Q. That's something he said?
 24 A. Yes, sir.
 25 Q. And he was pointing at you?

Page 88

1 was sort of discredit me, you know, put me in a bad
 2 light as to, you know, what can -- you know, what I
 3 am doing there when, in fact, happened with his wife.
 4 And so, he just went on. And I said: Enough.
 5 Q. So you would fairly characterize him, I
 6 guess, accurately, as he was upset emotionally at
 7 this point?
 8 A. No, he was out of control.
 9 Q. Out of control?
 10 A. Out of control.
 11 Q. That's even more than upset emotionally?
 12 A. Absolutely. In fact, beyond out of
 13 control. He was out of place given the institution
 14 where he placed himself. And besides out of control,
 15 disorderly. Quite honestly, I don't know if there's
 16 anything, you know, mentally wrong with him, because
 17 he just went out in a rage, to come and discredit, I
 18 guess, me as to what had happened years prior.
 19 Q. Well, actually we were talking about
 20 Christmas of 2011, right?
 21 A. Yeah.
 22 Q. And we were talking about you having an
 23 affair with Vicky Martinez through several months of
 24 2012?
 25 A. Some months, yes.

Page 87

1 A. Yes, sir.
 2 Q. And he said: Do you know what the fuck
 3 your coach did, something like that?
 4 A. That's correct. Not only did he -- that
 5 he had an affair with my wife?
 6 Q. Well, that was true, right?
 7 A. Correct.
 8 Q. He wasn't saying anything that was not
 9 correct?
 10 A. That is correct.
 11 Q. Did he say to you that you had no,
 12 quote, fucking business on campus?
 13 A. Yes.
 14 Q. All right. And I guess you're making, I
 15 don't want to use the word assumption, but you're
 16 making the inference that because you could hear all
 17 of this language, including the profanities, that the
 18 coaches could also hear?
 19 A. Absolutely.
 20 Q. And the players could hear?
 21 A. Without a doubt.
 22 Q. And did hear it?
 23 A. Well, I have to, as far as I know, yes,
 24 it was loud and clear. He positioned himself so that
 25 the kids would -- what I got from what he was doing,

Page 89

1 Q. So it wasn't years, it was maybe 12
 2 months earlier?
 3 A. Okay.
 4 Q. Is that right?
 5 A. Okay.
 6 Q. Now, he didn't have an affair with your
 7 wife?
 8 A. No.
 9 Q. So you weren't angry with him for having
 10 an affair with your wife?
 11 A. No.
 12 Q. Do you think a man would not be angry
 13 with a fellow who had an affair with his wife?
 14 A. Oh, I mean, but his behavior --
 15 Q. I am asking you a question. Would you
 16 assume that a man might be angry --
 17 A. Oh, yeah.
 18 Q. -- about someone having an affair --
 19 A. Sure.
 20 Q. -- with his wife?
 21 A. Absolutely. But they were no longer
 22 together and the fact --
 23 Q. Wait a minute. Were they together when
 24 you had the affair?
 25 A. They were together when we had the

Pages 86 to 89

Page 90

1 affair.
 2 Q. Okay. Let's go to that time.
 3 A. Okay.
 4 Q. When a man has an affair with another
 5 man's wife while there still is a marriage intact,
 6 wouldn't you expect that to create some anger?
 7 A. Absolutely. Absolutely. But there
 8 was -- there are two parties involved.
 9 Q. All right. Now, Mr. Martinez, he had no
 10 weapon on him that day as far as you know?
 11 A. That's correct, no.
 12 Q. He never threatened you physically?
 13 A. Threatened me physically? Well, he
 14 placed his hands on me.
 15 Q. But he never uttered a threat to you
 16 physically?
 17 A. No.
 18 Q. In your earshot he never threatened
 19 anybody else, did he?
 20 A. Threatened?
 21 Q. Did he threaten to hurt anybody?
 22 A. No.
 23 Q. Did he even yell at anybody else?
 24 A. Well, he was yelling continuously.
 25 Q. He was yelling at you?

Page 92

1 A. That's correct.
 2 Q. You had no business or personal disputes
 3 with this man?
 4 A. No.
 5 Q. The only thing between you, so to speak,
 6 was the fact that you had an affair with his wife?
 7 A. Correct.
 8 Q. So you must have concluded in hearing
 9 what he was saying, which you claim he was saying,
 10 that the reason for his upset and his anger was this
 11 affair, right?
 12 A. That would be safe to say.
 13 Q. The reason that he was engaging in loud
 14 and maybe insulting, embarrassing communications to
 15 you, in front of you and in front of others, because
 16 he was angry and communicated his anger because of
 17 the affair?
 18 A. Right.
 19 Q. Now, you wrote a report about this
 20 incident, didn't you?
 21 A. Correct.
 22 Q. And this is marked as Rivera 10.
 23 A. Okay.
 24 Q. I am showing you what we marked as
 25 Rivera 10. Is this the report that you wrote about

Page 91

1 A. Yes.
 2 Q. He wasn't yelling at the kids?
 3 A. Well, he was engaged -- engaging the
 4 kids, in what I would imagine, a frightful situation.
 5 I mean, as you describe, Lawrenceville is a very
 6 calm, safe environment where you have someone in his
 7 mental state, it's pretty threatening. Did they feel
 8 threatened for their lives? I think they felt
 9 comfortable that I was there.
 10 Q. But, of course, if you hadn't been
 11 there, there wouldn't have been any yelling?
 12 A. That is correct.
 13 Q. Because as far as you were concerned, he
 14 was yelling at you because of that affair?
 15 A. Well, he came over to where I was where
 16 I had not gotten -- I did not engage him. But to
 17 answer your question, he came over because he saw my
 18 troop car parked and knew where I worked, and so he
 19 took it upon himself to, you know, confront me,
 20 because he had never confronted me.
 21 Q. He had never confronted you?
 22 A. No.
 23 Q. He never loaned you any money, did he?
 24 A. No.
 25 Q. So it wasn't like you owed him money?

Page 93

1 this incident?
 2 A. This is what appears to be mine, yes,
 3 correct.
 4 Q. Is that your signature down there, under
 5 Trooper JG Rivera, Badge number 6010?
 6 A. Trooper 1, JG Rivera.
 7 Q. Okay. And could you and I agree that
 8 there is nowhere in this report that you mention that
 9 you had an affair with this man's wife and that was
 10 the source of his anger?
 11 A. That was not what the reason for me to
 12 engage with him.
 13 Q. I'm asking you a question, though.
 14 MR. MARSHALL OTTO: Answer the question.
 15 THE WITNESS: I'm sorry.
 16 BY MR. LOUGHRY:
 17 Q. Do you make any mention, one syllable,
 18 one word in this report about Mr. Martinez being
 19 angry at you because of affair you had with his wife?
 20 A. No, no, that doesn't.
 21 Q. That doesn't touch this report?
 22 A. No.
 23 Q. Not a word, not a syllable, right?
 24 A. No, it doesn't.
 25 Q. You were charging him among other things

Pages 90 to 93

Page 94

1 with make harassing communications?
 2 A. Correct.
 3 Q. You had some legal training, haven't
 4 you?
 5 A. Yes.
 6 Q. You had a class to understand what the
 7 statutes are?
 8 A. Correct.
 9 Q. You are aware that, aren't you, I am not
 10 asking you as a lawyer, I am asking you as a sworn
 11 law enforcement officer, there's a requirement to
 12 prove guilt of harassment if it's a verbal
 13 communication, that the person had a conscious object
 14 and desire, a purpose to harass; you heard that
 15 before, haven't you?
 16 A. Correct.
 17 Q. And you've also heard of cases where
 18 people are angry with another, but they had a purpose
 19 in communicating, a legitimate purpose, right?
 20 A. Right.
 21 Q. And if it's a legitimate purpose, then
 22 you don't have the specific intent to harass, do you?
 23 A. Right.
 24 Q. So in other words, for example, if
 25 somebody starts making phone calls in the middle of

Page 96

1 the reason? I am just asking a question.
 2 A. Yes, I mean, that would be to show why
 3 he was upset? I mean, I don't seem to quite
 4 understand the question, but, I mean, to show his
 5 purpose as to why he was behaving the way he was
 6 behaving, I understood. If he had come towards me
 7 one-on-one, but then he put the whole -- he took the
 8 stage and put everyone in alert. I took it upon
 9 myself then to say, hey, look, cut it out, it's
 10 enough. And I expressed myself to him, I said: This
 11 is old, let it go. And I said: Look, you are going
 12 to have to leave. And he's like, basically it went
 13 back: I don't know where the fuck you think you are,
 14 you have no business being here, so forth and so on.
 15 You don't know whether or not I'm supposed to be
 16 here. I know I am supposed to be here. So you know
 17 what, do yourself a favor and leave. That's when I
 18 opened up the gate than approached him, I said:
 19 Joel, do yourself a favor, just leave.
 20 Q. At this point, you knew Vicky Martinez's
 21 house was really across the baseball field?
 22 A. Right.
 23 Q. And you say that you -- were they
 24 divorced at that point?
 25 A. Separated or in the process.

Page 95

1 the night, two or three in the morning, yelling into
 2 the phone, what's the purpose, just to annoy
 3 somebody?
 4 A. Right.
 5 Q. To harass them?
 6 A. Right.
 7 Q. But if somebody is angry and they have a
 8 reason for being angry and the reason happens to be
 9 that someone was having an adulteress affair with
 10 their wife, they have a purpose in communicating,
 11 don't they?
 12 A. I suppose so.
 13 Q. All right.
 14 A. Everyone has their way of handling
 15 things.
 16 Q. And in a society where there's actually
 17 been a crime committed, that is a criminal offense of
 18 harassment, one has to make an evaluation of whether
 19 someone had or did not have a legitimate purpose in
 20 making that communication, don't they?
 21 A. That sounds about right.
 22 Q. Wouldn't it be important to put in your
 23 report the reason why somebody was acting in the way
 24 that you describe and expressing themselves in the
 25 way you describe, wouldn't it be important to note

Page 97

1 Q. You knew he was still the father of her
 2 children?
 3 A. Correct.
 4 Q. You knew he still saw those children?
 5 A. Correct.
 6 Q. You knew he spent time at that house,
 7 didn't you?
 8 A. Not to that extent, no. Because whether
 9 he -- no, because he was living off-campus. In fact,
 10 that was an issue. When I finally got him to the
 11 roadside where my car was parked, and I believe where
 12 his car was, Vicky Martinez shows up and says: Joel,
 13 what are you doing here?
 14 Q. There was no restraining order in place?
 15 A. I don't know. I actually don't know.
 16 Q. No one showed you a restraining order?
 17 A. I mean, didn't show me at the time. I
 18 didn't ask. I didn't see it was any relevance. But
 19 when she made that comment, it sort of got my
 20 attention as to, you know, why he was there.
 21 Q. We'll get to that in a minute.
 22 A. Okay.
 23 Q. We'll get to that conversation.
 24 A. All right.
 25 Q. You went over to Mr. Martinez and you

Pages 94 to 97

Page 98

1 told him you've got to leave?
 2 A. Yes.
 3 Q. And didn't you walk him back to his car?
 4 A. Well, it wasn't easy. I tried to calm
 5 him down, first of all. I actually tried, you know,
 6 to lower his voice and watch his language because of
 7 the children present. And so I just kept on
 8 insisting that he calm down, and that, you know,
 9 listen.
 10 Q. Are you standing with him at that point?
 11 A. I am standing, yeah, right in front of
 12 him. In the beginning, the initial was at the fence
 13 line.
 14 Q. Okay. He's still outside the field?
 15 A. Oh, yeah, he's outside the field,
 16 correct. He never actually entered the field.
 17 Q. And you're inside the field?
 18 A. I am inside the field.
 19 Q. But then you went out to be next to him,
 20 didn't you?
 21 A. Correct.
 22 Q. Did you escort him back to his car?
 23 A. I tried to calm him down. As he's
 24 walking, and I said: Look, why don't you just walk
 25 towards your car and make your way out of here. And

Page 100

1 Q. Did you physically touch his body, his
 2 clothing?
 3 A. I may have touched his clothing, I made
 4 contact with him, but I didn't push him in any way.
 5 Q. He walked back with you?
 6 A. After making --
 7 Q. I understand there was a little bit of
 8 time it took you to convince him, but then you walked
 9 back?
 10 A. He paused a couple times, and again,
 11 made a scene, and I am like Joel, really, and I use
 12 discretion. This is a discretion. Here I am a sworn
 13 officer and I'm trying to, you know, talk to him,
 14 say, hey, look, just leave.
 15 Q. And he walked out with you to the car?
 16 A. We did.
 17 Q. That was 50 yards away?
 18 A. Approximately.
 19 Q. Did you continue to speak with him?
 20 A. Yes, as he -- well, yes, but basically
 21 not speaking to him, but just to calm down.
 22 Q. Did he continue to be loud and abrasive?
 23 A. Yes, absolutely.
 24 Q. While you walked?
 25 A. Yes.

Page 99

1 we're continuing walking towards --
 2 Q. When you said that to him, he was
 3 standing, right?
 4 A. Yes, he was standing, correct.
 5 Q. You asked him if he would walk back to
 6 his car?
 7 A. Yes.
 8 Q. And he did that?
 9 A. Not immediately, no. Absolutely not.
 10 Q. But he did do it?
 11 A. Eventually, after, after minutes,
 12 minutes of asking him to first calm down, quiet it
 13 up, and to, you know, make his way out of here, to
 14 leave.
 15 Q. Did you walk him back in his car?
 16 A. Yes, after, perhaps, I'll say, at least
 17 ten minutes, between five and ten minutes.
 18 Q. Did you physically have to escort him,
 19 did you physically put your hands on him to do it?
 20 A. I told him, let's walk this way. You
 21 know, I gave him, sort of, I placed, not my hands on
 22 him, you know, sort of guided him.
 23 Q. You put your hand on his back?
 24 A. I don't recall putting my hand on his
 25 back.

Page 101

1 Q. And did he continue to use this
 2 profanity?
 3 A. Absolutely.
 4 Q. And so give us some examples of the
 5 things that he was saying and yelling as you walked
 6 back to the car with him?
 7 A. Examples? What the fuck, Jose. You
 8 don't belong here. You know, you're a piece of shit.
 9 I mean, it was things that I don't even recall.
 10 Q. Let me stop you there.
 11 A. Sure.
 12 Q. So he was saying the same things that he
 13 had said while yelling at you while you were out in
 14 the middle of the field?
 15 A. Yes.
 16 Q. And he is using the same verbiage?
 17 A. Yes.
 18 Q. All right. And it was loud enough in
 19 your view that maybe the people on the field could
 20 still hear it?
 21 A. Oh, absolutely.
 22 Q. And a direct quote, you know, what the
 23 fuck are you doing here, right?
 24 A. Right.
 25 Q. And so you were concerned that the

Pages 98 to 101

Page 102

1 students would still hear all of this?
 2 **A. Right, plus, it started escalating.**
 3 Q. This is all the way back to the car?
 4 **A. Correct.**
 5 Q. And this was all in English, right?
 6 **A. Correct.**
 7 Q. This was not a Spanish conversation
 8 between the two of you, was it?
 9 **A. No, I probably said his name in Spanish,**
 10 **Jose.**
 11 Q. Jose, because we don't pronounce the J,
 12 Jose?
 13 **A. Right, uh-hum.**
 14 Q. This was all in English?
 15 **A. Yes.**
 16 Q. And just as surely as the kids and the
 17 coaches could hear when he was standing over there
 18 near the dugout, your assumption was, at least, that
 19 they would hear this thing as you walked all the way
 20 back to the car?
 21 **A. Correct.**
 22 Q. Okay. Now, when you got back up to
 23 where the cars were, there came a point where Vicky
 24 Martinez appeared?
 25 **A. She drove up, yeah, and surprised by**

Page 104

1 Martinez and not you?
 2 **A. Yeah, absolutely.**
 3 Q. If anybody said anything to the
 4 contrary, they are just wrong?
 5 **A. Well, to my -- I remember basically**
 6 **telling him to calm down.**
 7 Q. Okay.
 8 **A. And then at the car when trying to calm**
 9 **him down, and Vicky shows up, and she gets involved,**
 10 **and I am, like, Vicky, you know, don't get involved.**
 11 **You know, he was over there acting, you know, like a**
 12 **fool, cursing, put the kids in, you know, you know, a**
 13 **real compromising, you know, position, and so she**
 14 **basically asked, you know, like, sort of surprised,**
 15 **like, what are you -- what are you doing here? Sort**
 16 **of like, I don't know.**
 17 Q. Okay. So you are over by your car or
 18 his car?
 19 **A. Right in front of my troop car, the**
 20 **driver side.**
 21 Q. And did Vicky come up and stand next to
 22 you?
 23 **A. She actually, no, she jumped out of her**
 24 **car, she drove up. The cars are facing, faced**
 25 **head-to-head and she jumps out of the car and**

Page 103

1 **finding him there.**
 2 Q. And she never told you that she had a
 3 restraining order against him, did she?
 4 **A. No.**
 5 Q. She just said: What are you doing here?
 6 **A. She basically said: Jose, what are you**
 7 **doing here?**
 8 Q. And Jose was saying that to you, too,
 9 wasn't he?
 10 **A. What am I doing? Oh, yeah.**
 11 Q. And you were saying it to him, weren't
 12 you?
 13 **A. Was I saying it to him? I didn't say**
 14 **anything to him.**
 15 Q. You didn't say anything to him?
 16 **A. Why he was there? No, for him to be**
 17 **there, whether he was supposed to be there or not,**
 18 **but when she came --**
 19 Q. Wait. He was yelling at you, but you
 20 weren't yelling at him?
 21 **A. No.**
 22 Q. Not even up by the car?
 23 **A. Not even by the car.**
 24 Q. So this was -- all of the emotion, all
 25 of the noise and everything was coming from Jose

Page 105

1 **hysterically says: What are you doing, Jose? What**
 2 **are you doing here? And sees me involved and trying**
 3 **to calm him down, and she's, she's asking, like, calm**
 4 **down. You're going to have to leave. What are you**
 5 **doing?**
 6 Q. Did she ever ask you to leave?
 7 **A. She never asked me to leave, no.**
 8 Q. Did she suggest you should leave?
 9 **A. No.**
 10 Q. Did she ever suggest you calm down?
 11 **A. No.**
 12 Q. Now, somebody named Goldenberg?
 13 **A. Yes, the athletic director.**
 14 Q. Did he come up at some point?
 15 **A. Yes.**
 16 Q. Did Vicky get there first?
 17 **A. Yes, if I remember correctly, she drove**
 18 **up and Goldenberg appeared. I didn't have a clear**
 19 **view where he was.**
 20 Q. Okay. He wasn't standing right next to
 21 you?
 22 **A. No, no.**
 23 Q. Vicky was?
 24 **A. Vicky was.**
 25 Q. And Jose?

Page 106

1 A. I had Jose on the front bumper, you
 2 know, trying to calm him down. Trying to say: Look,
 3 why don't you jump in the car and get out of here.
 4 Vicky's like: What are you doing here? You're not
 5 supposed to be here. And so I'm talking, I said:
 6 Jose, you're going to have to leave. And my -- what
 7 I'm telling myself at this point, now he's disobeying
 8 a direct order. And if he didn't leave, he was going
 9 -- was going to be placed under arrest.
 10 Q. Did you charge him with disobeying an
 11 order of the police?
 12 A. At that time, no.
 13 Q. At any time did you charge him?
 14 A. No, I did not.
 15 Q. Did you charge him with trespassing?
 16 A. I did not.
 17 Q. Okay. So I want to get the location of
 18 the people. You are in front of your car, near the
 19 front bumper?
 20 A. On the side.
 21 Q. On the passenger side or driver?
 22 A. Driver side.
 23 Q. Driver side?
 24 A. Driver.
 25 Q. Where is Jose?

Page 108

1 Vicky?
 2 A. Oh, a good seven, eight feet.
 3 Q. Seven, eight feet. Okay. But she's on
 4 the same side of the car?
 5 A. Yes. Her car is here (Indicating).
 6 Q. Do you know where Goldenberg was?
 7 A. I don't know. I don't know. I know he
 8 was in the area. I don't know if he was moving, but
 9 I didn't have my -- my eyes were on Joel.
 10 Q. Okay.
 11 A. Yeah, yeah.
 12 Q. And so you said at some point he put his
 13 hand on your arm or he grabbed your arm?
 14 A. I am telling Joel, you know, do us all a
 15 favor. You know, in my mind, I'm using all my
 16 authority and discretion, look, you know, look, I see
 17 what you did there, you know, being disorderly, look,
 18 I get it, you're upset.
 19 Q. Are you talking to him in the same tone
 20 of voice you are using here, your regular
 21 conversational tone?
 22 A. Yeah, regular, regular conversation.
 23 Q. You're not interrupting him or talking
 24 over him or being louder than him or anything like
 25 that; am I right?

Page 107

1 A. He's between me and the bumper. No,
 2 between me and, between you -- yeah, me and the
 3 bumper. He's between both of us. So he's facing me,
 4 sort of sitting or close to the bumper.
 5 Q. I am going to ask you to draw a little
 6 picture. It's pretty hard to follow what you're
 7 saying from my standpoint. Your counsel may be
 8 brighter than me --
 9 A. No. There's a troop car, you know, the
 10 bumper.
 11 Q. Is that the front that you are talking
 12 about?
 13 A. This is the side, the door, the bumper
 14 (Indicating).
 15 MR. MARSHALL-OTTO: Draw the whole car.
 16 MR. LOUGHRY: I am still not making any
 17 sense out of this. Sorry.
 18 THE WITNESS: Okay. So this is, I would
 19 say, the door, the bumper, front end on the
 20 driver's side. I am not an artist at all.
 21 Driver's side. So he's against the bumper,
 22 this is Jose, Jose Martinez, me, and Vicky was
 23 over here (Indicating).
 24 BY MR. LOUGHRY:
 25 Q. And how many feet away from you was

Page 109

1 A. Yes. I am actually trying to talk to
 2 him down, because he was so upset, and then I see
 3 where he was going, sort of like, first of all, now
 4 disregarding the authority. I'm not here as Jose.
 5 Though he saw Jose, he disrespected the uniform, he
 6 was disrespecting the uniform. And I told him.
 7 Jose, I mean, you're out of place. You're out of
 8 line. Whatever I said, I actually tried to walk him
 9 off the ledge, and tried to calm him down so he can
 10 leave because the matter was not that big. It was
 11 what he imagined in his head, you know, being
 12 revisited, because I had shown up on the field where
 13 he believed I wasn't supposed to be.
 14 Q. Let me stop you for a minute. Where was
 15 his car?
 16 A. I don't know. Quite honestly, I don't
 17 know where he parked his car.
 18 Q. Where was Vicky's car?
 19 A. Well, right facing my car as I was
 20 parked. I don't know what he was driving that day.
 21 Q. All right. And you were on the
 22 cul-de-sac?
 23 A. Correct.
 24 Q. Now, I recognize you didn't do this, but
 25 was there anything stopping you from, if you decided,

Pages 106 to 109

Page 110

1 you know, I'm going to leave, get in your car and
 2 drive away?
 3 **A. Could I have done that?**
 4 **Q. Yes.**
 5 **A. No, well, no, I'm basically, how would I**
 6 **say? Failure to act.**
 7 **Q. All right. I think you misunderstood my**
 8 **question. Nobody was stopping you from getting in**
 9 **your car, were they?**
 10 **A. No.**
 11 **Q. Okay. And nobody had blocked you in**
 12 **with their car or anything like that; am I correct?**
 13 **A. Sure.**
 14 **Q. So at any point here you could have**
 15 **said, you know what, I'm out of here, you could have**
 16 **gotten in my car and left.**
 17 **A. No.**
 18 **MR. MARSHALL-OTTO: Objection to form.**
 19 **MR. LOUGHRY: Physically. Let me just**
 20 **clarify.**
 21 **BY MR. LOUGHRY:**
 22 **Q. Physically you could have gotten in your**
 23 **car and left?**
 24 **A. As a civilian.**
 25 **Q. I'm just asking you if you could have**

Page 112

1 **he's not obeying my order to leave, and so I'm**
 2 **basically telling him, well, what are you going to**
 3 **do. So he sort of like grabbed my arm, and I sweep**
 4 **his arm and turn him around and place him under**
 5 **arrest.**
 6 **Q. So he placed his hand on your arm?**
 7 **A. Yes.**
 8 **Q. Did he inflict any pain?**
 9 **A. He did not inflict any pain.**
 10 **Q. Did he try to make your arm do anything**
 11 **in particular?**
 12 **A. No.**
 13 **Q. He just put his hand on your arm?**
 14 **A. Correct.**
 15 **Q. And you swept him?**
 16 **A. Yes, it's a sweep as, you know, in my**
 17 **training, it's that you, you are to be unarmed. And**
 18 **so I am talking to him, I know where I am, as far as,**
 19 **you know, the situation. I'm in uniform. I'm, you**
 20 **know, I am sworn to carry out the law. At that**
 21 **moment, I act, my initial, my immediate reaction was**
 22 **just to grab him and put him down, not knowing what**
 23 **he was thinking.**
 24 **Q. So which arm did he touch?**
 25 **A. This arm (Indicating).**

Page 111

1 physically done that.
 2 **A. Yes, but that takes, you're asking, I'm**
 3 **in the -- I'm working, I'm working. In the capacity**
 4 **I'm --**
 5 **Q. I think you're answering my question.**
 6 **You're saying professionally, you felt duty bound not**
 7 **to do that, not to leave?**
 8 **A. Not to leave.**
 9 **Q. But there was nothing physically**
 10 **stopping you?**
 11 **A. Not physically, absolutely not.**
 12 **Q. That was the only question I was asking,**
 13 **Trooper.**
 14 **A. Okay. All right.**
 15 **Q. We'll get through this a lot faster if**
 16 **you answer the questions I ask. I am sorry, I didn't**
 17 **mean to chastise you.**
 18 **A. No.**
 19 **Q. At some point when you're up there at**
 20 **the front of the car, he grabbed your arm?**
 21 **A. Yes.**
 22 **Q. With one hand or two?**
 23 **A. He grabbed with one hand, and that's**
 24 **when I swept and turned him. Because at that moment,**
 25 **as you can imagine, he's heated, he's really upset,**

Page 113

1 **Q. Your left arm?**
 2 **A. He reached from the right.**
 3 **Q. The record is not going to reflect**
 4 **unless I say this, that he put his hand on your left**
 5 **arm?**
 6 **A. Right, which would be his right arm onto**
 7 **my left.**
 8 **Q. Okay. And you immediately swept him?**
 9 **A. Yes, I swept, you know, it's sort of,**
 10 **you know, be the equivalent of having his arm, you**
 11 **know, go under and turning him around and placing him**
 12 **under arrest.**
 13 **Q. In your training is it a violation of**
 14 **the law for a citizen to touch you?**
 15 **A. Is it a violation of the law?**
 16 **Q. Of the law for a citizen to touch you?**
 17 **A. If you feel threatened, yes.**
 18 **Q. Mr. Martinez hadn't threatened you with**
 19 **any harm at that point, had he?**
 20 **A. Not towards me -- well, his presence and**
 21 **the fact that he failed to abide by my order, your**
 22 **tendency is to sort of worry and heighten your safety**
 23 **for your own protection.**
 24 **Q. I am asking a different question. He**
 25 **had not uttered any words, saying, I am going to hurt**

Pages 110 to 113

Page 114

1 you, I'm going to hit you, I am going to do anything
 2 like that, I am going to take you down, nothing like
 3 that?
 4 A. No.
 5 Q. And he hadn't said anything to Mr.
 6 Goldenberg along those lines, had he?
 7 A. I don't think so.
 8 Q. And you didn't hear him say anything
 9 like that to Vicky, did you?
 10 A. No.
 11 Q. And, in fact, he didn't say anything
 12 like that to anybody, had he?
 13 A. No.
 14 Q. Okay. Am I right?
 15 A. Yes.
 16 Q. So when he put his hand on your left
 17 arm, you swept his arm and grabbed it and what, you
 18 put him where, on the hood of the car?
 19 A. On the hood of the car.
 20 Q. My question is is it a violation of the
 21 law for someone to touch a police officer?
 22 A. When there is a situation that you feel
 23 that he's sort of a broken -- well, a law? For our
 24 safety and our training, we are part of, you know,
 25 our equipment. If he were to go for my weapon, he

Page 116

1 Q. When he was yelling at you, how close
 2 were you to him?
 3 A. Probably the distance away you are now.
 4 So it's about two, four, five feet.
 5 Q. Four, five feet?
 6 A. Uh-hum.
 7 Q. So it's not as though he was
 8 nose-to-nose with you?
 9 A. No.
 10 Q. You are a baseball man, aren't you?
 11 A. Yes, sir.
 12 Q. Let's talk about the major leagues for a
 13 minute. You probably seen it when a manager gets
 14 upset at a call and comes out at the field to argue
 15 with the umpire?
 16 A. Yes.
 17 Q. You've probably seen someone like
 18 Charlie Manuel or somebody like that get nose-to-nose
 19 with an umpire?
 20 A. Sure.
 21 Q. And you probably notice the manager is
 22 really careful not to make any physical contact with
 23 the umpire?
 24 A. Yes.
 25 Q. It's a rule in the baseball rule book?

Page 115

1 goes for my person, that's a physical contact. We
 2 are not to be touched in any way.
 3 Q. Is there a law that says that?
 4 A. I don't know. Is it law?
 5 Q. I mean, it would be a law, for example,
 6 if someone inflicted some pain on you, right,
 7 aggravated assault?
 8 A. Well, the idea -- I understand what
 9 you're saying, counsel, but the idea was that, you
 10 know, we are trained in a manner you're in a
 11 situation, you feel that your safety can be
 12 compromised, your reaction is to subdue and take
 13 control.
 14 Q. So in your training, were you trained if
 15 a citizen makes any contact with your body
 16 whatsoever, you are to take action and put them down,
 17 so to speak?
 18 A. In a situation where you feel there's
 19 aggression, absolutely.
 20 Q. So what was the aggression other than
 21 his saying things that were embarrassing to you?
 22 A. His behavior, I mean, I don't know his
 23 state of mind. I am not a psychologist, but he was
 24 in a very threatening manner. He was at a very
 25 heightened aggressive state of mind.

Page 117

1 A. Against the umpire.
 2 Q. If you even brush the umpire's uniform,
 3 you're out of the game?
 4 A. You're correct.
 5 Q. And is there such a rule in the code, in
 6 the criminal code in New Jersey?
 7 MR. MARSHALL-OTTO: Objection to the
 8 form.
 9 THE WITNESS: It brings us to the
 10 point -- I'm sorry.
 11 BY MR. LOUGHRY:
 12 Q. Do you know of any law in the criminal
 13 code in the State of New Jersey that has that kind of
 14 provision, if you touch the police officer, you
 15 committed an offense? That's all I'm asking.
 16 A. Not that I know of. Criminal? No.
 17 Q. Now, back in 2011 around Christmastime
 18 and then the weeks and months that followed, do you
 19 remember either Mrs. Martinez or Mr. Martinez making
 20 contact with your wife to discuss the affair that you
 21 had had or were having with Mrs. Martinez? Did that
 22 ever happen?
 23 A. Did my wife make any contact?
 24 Q. Yes.
 25 A. My wife made contact with her husband,

Pages 114 to 117

Page 118

1 **Joel Martinez.**
 2 Q. In fact, she went over to the Martinez
 3 house, correct?
 4 A. Yes.
 5 Q. Is she the one that told them, hey, my
 6 husband is having an affair with Mrs. Martinez?
 7 A. Well, I don't know exactly what was
 8 said, but that's when they learned -- he learned that
 9 what was going on.
 10 Q. You knew that she went over there?
 11 A. She had told me later on.
 12 Q. She told you that she went over there?
 13 A. Correct.
 14 Q. She was going to tell the Martinezes
 15 what was going on?
 16 A. She had told what was -- what she
 17 believed, something may have been going on between
 18 his wife and myself.
 19 Q. And she was right, wasn't she?
 20 A. Yes, sir.
 21 Q. And there was some follow-up contact
 22 between one of the Martinezes and your wife, wasn't
 23 there?
 24 A. I don't know.
 25 Q. Well, wasn't it the case that Joel made

Page 120

1 saying you had an affair with his wife, didn't it?
 2 A. No. Got under my skin? No.
 3 Q. Didn't that upset you?
 4 A. I mean, I mean, I realized what had
 5 happened, but it didn't get under my skin where I
 6 felt...
 7 Q. Let me put it this way, the fact that he
 8 was publicly and loudly accusing you in front of
 9 other people, like, your students and baseball
 10 players, the coaches, that you had an affair with his
 11 wife, that's not something that you had told those
 12 coaches prior to that day, right?
 13 A. Yes.
 14 Q. That was a secret of yours?
 15 A. Secret of mine to them? Well, they did
 16 not know. I didn't tell them.
 17 Q. So Mr. Martinez was revealing something
 18 that was intensely personal about your life, wasn't
 19 it?
 20 A. He revealed it, correct.
 21 Q. It was very embarrassing to you,
 22 correct?
 23 A. It was embarrassing -- well, yeah, I
 24 mean, it was revealing something that I didn't need
 25 everyone to know about. I was dealing with my own

Page 119

1 contact with your wife to say, they had unprotected
 2 sex, you might want to get yourself checked?
 3 A. I don't know.
 4 Q. That never came to your attention?
 5 A. That's not something I -- no. No.
 6 Q. In the course of this encounter, do you
 7 recall Mr. Martinez questioning whether you were an
 8 alumnus of the school, the Lawrenceville School?
 9 A. Correct.
 10 Q. And you had told him that you had a
 11 right to be where you were among other reasons
 12 because you were an alumnus, correct?
 13 A. Yes.
 14 Q. He said, you're not an alumnus, you are
 15 a failure, you didn't graduate?
 16 A. Correct.
 17 Q. You didn't graduate?
 18 A. I didn't graduate from Lawrenceville
 19 School.
 20 Q. You went somewhere else and graduated,
 21 right?
 22 A. Yes.
 23 Q. That got under your skin, didn't it?
 24 A. No.
 25 Q. Well, it got under your skin when he was

Page 121

1 issues, so embarrassed, I was just, you know, yeah,
 2 I'd say embarrassed.
 3 Q. This place where you were, you said it
 4 was about a quarter of a mile from the highway?
 5 A. Yes, sir.
 6 Q. You couldn't see the highway from the
 7 baseball field?
 8 A. Not with the greenery. On a day like
 9 today, you could see the highway and traffic.
 10 Q. Is that so? From Route 95, you could
 11 see that baseball field today?
 12 A. The entrance? You could see where --
 13 you could see a lot more. You don't exactly see the
 14 highway, correct.
 15 Q. That baseball field is across some other
 16 road, isn't it?
 17 A. Correct.
 18 Q. All right. If you look at the map.
 19 A. Yes.
 20 Q. Okay.
 21 MR. LOUGHRY: Let's have this marked.
 22 (Exhibit Rivera 11, Answers to
 23 Plaintiff's First Set of Interrogatories on
 24 Behalf of Trooper I. Jose G. Rivera, is marked
 25 for identification.)

Pages 118 to 121

Page 122

1 (Exhibit Rivera 12, hand-drawn diagram,
2 is marked for identification.)
3 BY MR. LOUGHRY:
4 Q. Rivera 12, this is a piece of paper, the
5 lined piece of notebook paper that you did a short
6 drawing on of where the parties were basically
7 located; is that right?
8 A. **That's correct, yeah.**
9 Q. And we have on the driver's side of your
10 car, the police car?
11 A. **Correct.**
12 Q. We have you and Mr. Martinez and Vicky
13 Martinez on that same side a bit off to the side, you
14 said, six, seven feet?
15 A. **Yes, roughly.**
16 Q. And I think you used VM for Vicky
17 Martinez, UM or VM, and then you got JM, and then we
18 got ME, M-E, meaning you.
19 A. **That's correct.**
20 Q. Now, we know what that is. Now, 11, I
21 am going to show you what's marked 11. I want you to
22 take a quick look. I probably am not going to have
23 any specific questions. I just want to confirm what
24 it is we have here. Can you identify this as a set
25 of Interrogatory Answers that you reviewed and then

Page 124

1 Police Arrest Report, CONFIDENTIAL, NJSP
2 MARTINEZ 042 through 043, is marked for
3 identification.)
4 BY MR. LOUGHRY:
5 Q. Trooper, take a look at what we marked
6 Rivera 13. I'll have a couple questions.
7 Do you recognize this as the Arrest
8 Report and signed by you on Mr. Martinez's arrest?
9 A. **That's correct.**
10 Q. Now, this form, is this the form that
11 you actually fill out yourself?
12 A. **It's generated in the system, the**
13 **computer system.**
14 Q. Well, how does that happen, do you sit
15 at a keyboard and --
16 A. **Yes.**
17 Q. You're not typing it in a sense, but you
18 are inputting, a laptop or personal computer?
19 A. **The station computers.**
20 Q. So you are the one that enters all the
21 information?
22 A. **Correct, uh-hum.**
23 Q. And let's see. There's a box, halfway,
24 well, a third of the way down. It talks about the
25 crime and it says harassment, 33-4. That's an entry

Page 123

1 signed on the last page under a paragraph that is
2 entitled Certification?
3 A. **Yes. Yes.**
4 Q. My question is, is that your signature
5 on the last page? That's what I'm looking for.
6 A. **Oh, okay. Yeah, that's mine. That's my**
7 **signature.**
8 Q. Okay. And that's dated 8/30/17?
9 A. **Yes.**
10 Q. Did you sign that?
11 A. **Yes, I did.**
12 Q. So in order to -- this is a
13 Certification saying these answers are my answers,
14 they are accurate and correct and so forth?
15 A. **To the best of my ability, yes.**
16 Q. All right. In other words, you reviewed
17 the questions and answers before you signed the
18 Certification?
19 A. **Yes.**
20 Q. And you made the Certification?
21 A. **That's right.**
22 Q. And then you signed it?
23 A. **That's correct.**
24 MR. LOUGHRY: Let's mark this.
25 (Exhibit Rivera 13, New Jersey State

Page 125

1 that you made, not someone else?
2 A. **I imagine I put that in there, correct.**
3 Q. And arrest type, and a little farther,
4 three, four boxes down, there's a box, Arrest Type?
5 A. **Right.**
6 Q. And there's something checked there that
7 says P-R-A. Do you know what that stands for?
8 A. **Patrol related.**
9 Q. There's a box down here towards the
10 bottom, the next-to-the-last section, Final
11 Disposition. Did you make those entries at all?
12 A. **No. Well, no, we don't, no, this is --**
13 **well, this is tentative. Put in where the court is,**
14 **where the court matter is going to be heard and so**
15 **forth and so on. The sentence is pending. Basically**
16 **where the court is going to be, when the matter is**
17 **going to be heard.**
18 Q. There is a municipal court in
19 Lawrenceville, correct?
20 A. **That's correct.**
21 Q. Do they have a police department in
22 Lawrenceville?
23 A. **Yes, sir.**
24 Q. They have local patrol officers?
25 A. **Local patrol, uh-hum.**

Pages 122 to 125

Page 126

1 Q. I see down here, there's a narrative box
 2 at the very bottom where it says, Disorderly Persons
 3 Offense, and there's a -- is that the summons number
 4 there?
 5 A. 2000 -- I mean, 201, correct.
 6 Q. And those last three digits are 387.
 7 And that's the 387 that we saw on the summons?
 8 A. Did that correlate? I think it was.
 9 Q. Okay. And you got a sergeant Murtha
 10 here whose name appears halfway down?
 11 A. Staff sergeant, yes, sir.
 12 Q. He was a supervisor there at the
 13 facility?
 14 A. At the station, our station, correct.
 15 Our station?
 16 Q. The Negron Station?
 17 A. Yes.
 18 (Exhibit Rivera 14, N.J. State Police
 19 Supplemental Investigation Report,
 20 CONFIDENTIAL, NJSP MARTINEZ 044 through 046, is
 21 marked for identification.)
 22 BY MR. LOUGHRY:
 23 Q. So this is now Rivera 14. Take a look
 24 at that. At the top it says New Jersey State Police
 25 Supplemental Investigation Report?

Page 128

1 A. October, safe to say that, yeah.
 2 Q. And so this was --
 3 A. Or was I?
 4 Q. I don't know. I am asking you.
 5 A. You know, I am just thinking, because I
 6 may have been transferred to another station,
 7 Kingwood Station. So I am not actually sure whether
 8 I was on medical leave or up in Kingwood Station.
 9 Q. Where was that?
 10 A. Kingwood, Hunterdon County.
 11 Q. Did you ask to be transferred up there?
 12 A. No, you know, we get transferred all
 13 over the place. Basically it's a manpower issue.
 14 Q. Was that a patrol assignment?
 15 A. Yes, and I've been there to that station
 16 before. That was my first tour.
 17 Q. The report has the name of four
 18 witnesses: Vicky Martinez, Michael Goldenberg, Champ
 19 Atless?
 20 A. Atlee.
 21 Q. And Blake Eldridge?
 22 A. That's correct.
 23 Q. And those are names you supplied to the
 24 detective?
 25 A. Yes.

Page 127

1 A. Yes.
 2 Q. Now, this report looks like it was dated
 3 October 10, 2013; do you see that?
 4 A. Yes.
 5 Q. So this is several months after the
 6 incident. Did someone ask you to write this report?
 7 A. No. Hold on a second. Let me look at
 8 this.
 9 Q. I mean, it's your signature?
 10 A. Yes, October 10th. No. Okay. I
 11 was...okay. No. No, my signature is not on here.
 12 At the end of the report?
 13 Q. Oh, I'm sorry.
 14 A. This is a follow-up, someone accused
 15 Martinez, I was contacted -- I contacted this person
 16 who was Detective Fitzgerald, with regards to the
 17 investigation. Same requested a supplemental report
 18 be typed detailing the persons present when Joel
 19 Martinez acted in a disorderly fashion. So, yeah,
 20 okay.
 21 Q. This Detective Fitzgerald, is he
 22 somebody who was at the station you were operating
 23 out of?
 24 A. Yes, correct.
 25 Q. At that point you were on medical leave?

Page 129

1 Q. And you believe they would be witnesses?
 2 A. Yes.
 3 Q. Other than this report and the other
 4 report we've had marked Rivera 10, the Investigation
 5 Report you wrote on the date of the incident, other
 6 than these two reports, did you write any other
 7 reports?
 8 A. No.
 9 Q. Well, actually, the Supplemental was
 10 written by --
 11 A. Detective Fitzgerald.
 12 Q. You didn't even write the Supplemental.
 13 You just wrote the one report?
 14 A. That's correct.
 15 Q. All right.
 16 Q. Is there any reason why when you called
 17 in to the CAD, the Dispatch, you called this in as a
 18 trespass complaint? Is there any reason why you
 19 didn't call it in as harassment complaint?
 20 A. It would have been a slew -- basically,
 21 you enter one, and then you then figure out what
 22 other charges at the time. At the time it was a
 23 trespass. Because what I was learning, what I had
 24 asked him to do when he is not supposed to be there,
 25 because, in fact, he was on private property. That's

Pages 126 to 129

Page 130

1 private property. So when I asked him to leave, he
2 was disobeying a direct order to leave private
3 property. He wasn't on, you know, a parking lot of a
4 supermarket, he could say, I can do whatever. It was
5 private property.

6 Q. Did any of these coaches, for example,
7 did they complain about trespass? Did they sign a
8 complaint or anything like that?

9 A. Not that I know of, no, no.

10 Q. Is there any kind of signage anywhere
11 that said, you know, no entry to this field or
12 anything like that? Did you see any sign?

13 A. Well, I don't know of any, you know, in
14 view?

15 Q. Yes.

16 A. Of saying that it is private property?

17 Q. Yes, yes.

18 A. Not that I know of.

19 Q. Okay.

20 A. Not that I know of.

21 Q. And that house that Vicky Martinez was
22 living in and the Martinezes lived in, that was on
23 school grounds, wasn't it?

24 A. Correct.

25 Q. Do you know whether that was school

Page 132

1 suffice, identified under a protective order?

2 MR. MARSHALL-OTTO: Yes, we can talk
3 about potentially if there's a trial when we
4 get there and how the Court might, you know,
5 crack a solution for that, but that's a problem
6 for another day.

7 MR. LOUGHRY: That's another issue.
8 Neither one of us has committed ourselves as
9 far as I can see on that issue. Obviously, we
10 have a constitution, we have public trials, you
11 know, these are not national security secrets.
12 At least last I checked. Okay. So I guess we
13 can close the record on that. Thank you very
14 much.

15 (Witness excused.)

16 (Testimony concluded.)

Page 131

1 property, the school owned it?

2 A. Yes.

3 Q. Or did the Martinezes own it?

4 A. No, they are, I guess, from what I
5 understand, it's sort of like dorms for the family
6 faculty.

7 MR. LOUGHRY: That's all the questions I
8 have. Thank you.

9 THE WITNESS: Okay.

10 MR. LOUGHRY: We have logistics to do
11 here. My guess is that the easiest thing for
12 the present purposes, to mark the deposition as
13 CONFIDENTIAL.

14 MR. MARSHALL-OTTO: Yes.

15 MR. LOUGHRY: There were one or two
16 documents that weren't. Why don't we mark it
17 for now at least CONFIDENTIAL, and the exhibits
18 as CONFIDENTIAL as well. Obviously, we have
19 some terms of the order we have to live with in
20 terms of publications that delve outside the
21 confines of the litigation. I mean, an expert
22 can look at it, you know, our staff can look at
23 them. Obviously, if we have a public trial,
24 then if it we're going to be out in public.
25 But for the present purposes, would that

Page 133

1 CERTIFICATE.

2 I, Theresa DiStefano, a Certified Court
3 Reporter of the State of New Jersey, do hereby
4 certify that the foregoing is a true and accurate
5 transcript of the testimony as taken stenographically
6 by and before me at the time, place and on the date
7 hereinbefore set forth.

8 I do further certify that I am neither a
9 relative nor employee nor attorney nor counsel of any
10 of the parties to this action, and that I am neither
11 a relative nor employee of such attorney or counsel
12 and that I am not financially interested in this
13 action.
14
15


16 THERESA DISTEFANO, C.C.R.
17 CERTIFICATE NO. X101115
18
19
20
21
22
23
24
25

Pages 130 to 133

C E R T I F I C A T E

I, Theresa DiStephano, a Certified Court Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.


Theresa DiStephano, C.C.R.
Certificate No. X101115